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MANUAL
OF
LEGISLATIVE PRACTICE,
IN THE
GENERAL ASSEMBLY OF OHIO,
1894-95.

General Library

—OF—

UNIVERSITY OF MICHIGAN.

PRESENTED BY

Prof. B. A. Hinsdale

5 Nov. 1896

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COMPLIMENTS OF
....MANUEL R. MALLOY.
CLERK OHIO HOUSE OF REP'S.

Legislative Practice

IN THE

General Assembly

OF

The State of Ohio.

1894-95.

Revised and Corrected to 1895.

NORWALK, OHIO:
THE LANING PTG. CO., STATE PRINTERS.
1895.

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RULES OF THE SENATE.

RIGHTS AND DUTIES OF THE PRESIDENT.

President of the Senate.

1. The Lieutenant-Governor shall be President of the Senate, but shall vote only when the Senate is equally divided, and in case of his absence or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President *pro tem.* [*Sec. 16, Art. III, Const.*]

Organization.

2. At the hour of 10 A. M., on the first Monday in January, the day fixed by the Constitution for the organization of the Senate, the President of the Senate, or in his absence, the *oldest man* present, who is a Senator-elect, shall assume the Chair, and call the Senators-elect to order. He shall designate one of them to act as Clerk, and he shall then call the Senatorial districts in their numerical order, and the persons holding certificates of election from said districts shall present the same and take the oath of office. [*Sec. 25, R. S.*]

Same.

3. The President shall take the chair precisely at the hour to which the Senate shall have adjourned on the preceding day, and shall immediately call the Senate to order.

Rights and duties of the President.

4. The President shall have the general direction of the Senate Chamber; he shall

have the right to name any Senator to perform the duties of the Chair; but such substitution shall not extend beyond an adjournment.

Rights and duties of the President.

5. He shall preserve order and decorum in the proceedings of the Senate; and in case of any disturbance or disorderly conduct in the lobby, the President, or Chairman of the committee of the whole Senate, shall have the power to order the same to be cleared.

Same.

6. All committees, except standing committees, may be appointed by the President.

Same.

7. The President shall sign all acts and joint resolutions, *when passed by both houses;* and all writs, warrants and subpœnas issued by order of the Senate shall be under his hand, attested by the Clerk.

Appointment of Pages.

8. The President of the Senate shall appoint three pages, who shall serve during the sessions of the Legislature, unless dismissed for cause by the officer appointing, or the Senate. Additional pages may be authorized by the Senate. [*Sec. 34, R. S.*]

Standing Committees.

9. At the beginning of the regular session, the Senate shall appoint the following standing committees:

1.	Judiciary	11
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14.	Penitentiary	7
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16.	Industrial Schools for Boys and Girls	7
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29.	Public Printing	5
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35. Medical Societies and Colleges.... 7
36. Revision 3
37. Enrollment (Joint Committee)... 5
38. Rules 5
39. Taxation 5

Rights and duties of Senators.

10. When a Senator is about to speak, he shall rise from his seat and respectfully address himself to "Mr. President," and the President shall announce him as "The Senator from ——" [naming his county.] The Senator may then speak, either from his seat or the seat of any other Senator tendered him for the purpose, or from the stand.

Same. Who shall speak first.

11. In all cases the Senator who shall first rise and address the President, shall speak first; but when two or more Senators rise at the same time the President shall announce the Senator who is to speak first.

Same. Shall not speak more than twice.

12. No Senator shall speak more than twice to the same question, except in committee of the whole Senate, or by leave of the Senate; and the Senator in speaking shall confine himself to the question under debate, and avoid personality.

Same. May read extracts.

13. Any Senator, while discussing a question, may read, or cause to be read, from books, papers or documents, any matter pertinent to the subject under consideration, without asking leave.

N. B.—Municipal Corporations, No. 1, embraces the cities of Cincinnati and Cleveland. Municipal Corporations, No. 2, embraces all other Municipal Corporations.

Same. Statement of the question.

14. Any Senator may call for a statement of the question, which the President may give sitting.

May call for a division.

15. Any Senator may call for a division of the question, and the decision of the President as to its divisibility shall be subject to appeal as in questions of order.

Shall vote.

16. Every Senator present when the question is put shall vote, unless the Senate, for special reasons, excuses him.

May be excused from voting

17. A request to be excused from voting shall not be in order unless made before the Senate divides, or before the call of the roll is commenced.

How excused.

18. Any Senator requesting to be excused from voting, may make a brief statement of the reasons for making such request, and the question shall then be taken, without further debate.

Roll call. How quorum ascertained.

19. When less than a quorum vote on any question pending in the Senate, the President shall forthwith order the roll of Senators called by the Clerk. If a quorum be present, as shown by answering to their names, or by their presence in the chamber, the President shall again order the roll to be called, and if any Senator refuses to vote, he shall be noted as present but not voting.

Decorum.

20. While the President or Chairman is putting any question, or addressing the Senate, no one shall walk across the chamber; and while a Senator is speaking no one shall pass between him and the Chair.

Same.

21. No other person than the Clerk shall remain at the Clerk's desk while the yeas and nays are being taken or ballots being counted.

Demand for the yeas and nays.

22. Any Senator may demand the yeas and nays upon any question before it is put, and upon such demand the Clerk shall call the names of Senators in their alphabetical order, and before the result is declared, shall read over the names of those voting in the affirmative and those voting in the negative; and after the call of the roll has been commenced, no Senator shall be permitted to explain his vote, and no motion shall be in order until a decision has been announced by the Chair.

Call of the Senate.

23. Any Senator may demand a call of the Senate, and upon such call the names of the Senators shall be called by the Clerk, alphabetically, and the absentees noted.

Previous question.

24. Any three members may demand the previous question.

When Senator shall not vote

25. No Senator shall vote on any question in the event of which he is individually interested.

Right of protest.

26. Any Senator may protest against any act or resolution of the Senate, and such protest and the reasons therefor, shall, without alteration, commitment or delay, be entered upon the Journal. [*Sec.* 2, *Art. II, Const.*]

ORDER OF BUSINESS OF THE DAY.

The Journal to be read.

27. As soon as the Senate is called to order, a quorum being present, the Journal

of the preceding day shall be read by the Clerk, and, if necessary, corrected by the Senate.

Order of business.

28. As soon as the Journal is read and corrected as aforesaid, the President shall call for the presentation of—

1. Petitions and memorials.
2. The introduction of bills.
3. Bills for second reading.
4. Bills for third reading.
5. The reports of standing committees in their order.
6. The reports of select committees.
7. Miscellaneous business.

Two-thirds vote necessary to dispense with regular order of business.

This business shall be disposed of in the order in which it is arranged, and shall not be in order at any other time, unless by leave of two-thirds of the Senators present.

Incomplete call.

If the calling of the committees be not completed on any given day, the President shall, on the subsequent day, on reaching "Reports of Standing Committees," commence with the committee next in order after that last called on the previous day.

Petitions.

29. Every petition and memorial shall be referred, on motion, without putting the question for that purpose, unless the reference be objected to at the time of its presentation.

Same.

30. No petition or memorial shall be printed unless by special order of the Senate. [*Sec. 59, R. S.*]

Messages.

31. Messages from the House, and communications from either branch of the Executive Department of the State, may be received, read and disposed of at any time, except when the President is putting a question, while the yeas and nays are being called, or while ballots are being counted, unless objection is made to the reading, when the Senate shall decide.

Recess.

32. The interim between any two sessions of the Senate on the same day shall be termed a recess, and on the re-assembling at the appointed hour any question pending at the time of taking such recess shall be resumed without any motion to that effect.

QUESTIONS OF PRECEDENCE.

Questions of precedence.

33. The following questions shall take precedence in the order named:

1. To adjourn.
2. To take a recess.
3. To lie on the table.
4. Previous question.
5. To proceed to the orders of the day.
6. To postpone to a day certain.
7. To commit.
8. To amend.
9. To postpone indefinitely.

MOTIONS AND QUESTIONS.

Motions and amendments

34. Every motion shall be reduced to writing if the President or any Senator so desire, and whenever an amendment is

offered to any bill or resolution under consideration by the Senate, or an amendment to an such amendment, the Senator proposing the same shall reduce it to writing and forward it to the Clerk's desk.

Same.

35. When a motion is made and seconded, it shall be stated by the President; or being in writing, it may be read to the Senate by the President or Clerk before debate.

Same.

36. After a motion is stated or read by the President, or read by the Clerk, it shall be deemed to be in the possession of the Senate, but may be withdrawn by leave of the Senate at any time before a decision or amendment.

Same.

37. All questions, whether in committee of the whole or the Senate, except privileged questions, shall be put in the order in which they are made, except in filling blanks the largest sum and longest time shall be put first.

Motions and questions.

38. Questions shall be distinctly put in this form: "You who are of the opinion (as the question may be) say 'aye';" and after the affirmative voice is expressed, "Those of a contrary opinion say 'no.'" If the President doubt or a division be called for, the Senate shall divide—those of the affirmative of the question first rising from their seats, and afterwards those in the negative, and the President shall determine by count, announcing the number.

Same.

39. When a motion is made to commit to a committee of the whole Senate, or to a standing committee, it shall not be in order to amend such motion by submitting any other committee; but if any other committee be suggested, the motion shall first be put upon the committee first named, and afterwards upon the committee or committees suggested, in the order in which they were named.

Same.

40. A motion to postpone to a day certain, or indefinitely, being decided, shall not be again allowed at the same stage of the bill or proposition; if a bill, resolution or other matter be set for consideration on a certain day, it shall not be considered at an earlier day.

Motion to adjourn.

41. A motion to adjourn shall always be in order, except while a member is speaking, while a vote is being taken, or when the Senate is under a call: but being decided in the negative shall not be again entertained until some motion, call, order or discussion shall have taken place.

Questions not debatable.

42. The following questions shall be decided without debate, to wit:

To adjourn.

To take a recess.

To lie on the table.

To take from the table.

To go into committee of the whole on the orders of the day, and on all questions relating to the priority of business.

AMENDMENTS.

Amendments.

43. No motion or proposition upon a subject different from that under consideration shall be admitted under color of amendment.

When divisible.

44. A motion to strike out and insert shall be deemed divisible; and a refusal to strike out shall be equivalent to agreeing to the matter in that form, but shall not preclude further amendment by way of addition.

RECONSIDERATION.

To reconsider.

45. A motion to reconsider a vote must be made by a Senator who voted with the prevailing side, except in case of the failure of a bill upon its final passage, when the motion may be made by any Senator who voted upon the question.

Same.

46. A motion to reconsider must be made within two legislative days after it was taken (not including Sunday, nor days when the Senate is not in session), and shall take precedence of all other questions, except a motion to adjourn.

THE PREVIOUS QUESTION.

Previous question

47. The previous question shall be in this form: "Shall the main question now be put?" It shall only be admitted when demanded by three Senators, and, until decided, shall preclude further debate, and all amendments and motions, except one motion to adjourn, one motion to take a recess and one motion to lie on the table.

Previous questions.

48. All incidental questions, or questions of order, arising after a demand is made for the previous question, shall be decided without appeal, and without debate pending such demand.

Same.

49. On a demand for the previous question, and prior to voting on the same, a call of the Senate shall be in order; but after the demand for the previous question has been sustained, no call shall be in order; and the Senate shall be brought to an immediate vote—first upon the pending amendments in their order, and then upon the main question.

Same.

50. If a demand for the previous question be not sustained, the subject under consideration shall not thereby be postponed, but the business shall proceed as if no such demand had been made.

QUESTIONS OF ORDER.

Questions of order.

51. If any Senator, in speaking or otherwise, transgress the rules of the Senate, the President shall, or any member may, call to order; and the Senator called to order shall take his seat, if required to do so by the President, until the qestion of order is decided.

Undebatable.

52. All questions of order shall be decided by the President without debate; such decisions shall be subject to appeal to the Senate by any two Senators; on which appeal no Senator shall speak more than once,

unless by leave of the Senate, and the President may speak in preference to Senators, rising from his seat for that purpose.

Appeal.

53. If the decision be in favor of the Senator called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any Senator objects, without leave of the Senate.

Same.

54. If a Senator call another to order for words spoken in debate, he shall, if required by the President, reduce to writing the language used by the Senator which he deemed out of order.

Same.

55. All questions of order, with the decisions thereon, from which an appeal may have been taken, shall be noted by the Clerk, and put together at the end of the Journal at each session.

THE YEAS AND NAYS—WHEN TO BE CALLED.

Yeas and nays election of officers.

56. The yeas and nays shall be called upon the election of all officers, a majority of those voting being necessary to a choice, and if there be no choice after ten votings, the person receiving the highest number of votes shall be declared elected. [*Sec. 33, R. S.*]

Same. A constitutional majority necessary.

57. The yeas and nays shall be called upon the passage of all bills and the adoption of all joint resolutions, having the force and effect of law, and a majority of the votes of all the Senators elected shall be necessary to pass either. *Sec. 9, Art. II, Const.*

Same. Three-fourths vote necessary.

58. The yeas and nays shall be called upon motions to dispense with a constitutional rule, and three-fourths of all the members elected to the Senate shall be necessary to suspend such rule. [*Sec. 16, Art. II, Const.*]

Same. A constitutional majority necessary.

59. The yeas and nays shall be called upon the adoption of all resolutions expending money, and a majority of the votes of all the Senators elected are necessary to the adoption of such resolution. [*Sec. 22, Art. II, Const.*]

Same. Two-thirds vote necessary.

60. The yeas and nays shall be called upon all bills or resolutions giving extra compensation to any officer, or paying any claim not provided for by pre-existing law, and two-thirds of the votes of all the Senators elected shall be necessary to pass such a measure. [*Sec. 29, Art. II, Const.*]

Same. Confirmation.

61. The yeas and nays shall be called upon the confirmation of all nominations made by the Governor, and spread upon the Journal. [*Sec. 2, Art. VII, Const.*]

Same. Three-fifths vote necessary.

62. The yeas and nays shall be called upon the adoption of all resolutions proposing amendments to the Constitution, and three-fifths of the votes of all the Senators elected are necessary to the adoption of such resolutions. [*Sec. 1, Art. 16, Const.*]

COMMITTEES.

Committees. Chairmen.

63. The first named member of any committee shall be the Chairman, and in his absence the next named member, unless the

committee, by a majority, elect a Chairman. No committee shall sit during the session of the Senate, without leave. The committees shall meet upon the call of their respective Chairmen, and in case of his absence, or refusal to call the committee together, a meeting may be called by any two members of the committee.

Committee reports.

64. The several standing and select committees of the Senate shall have leave to report by bill or otherwise; but the report of any committee must be signed by a majority of its members before it can be received at the Clerk's desk; and when a majority of a committee have reported, the minority may present their views.

Same.

65. It shall be in order for the committee on Revision or on Enrollment to report at any time when the Senate is not otherwise engaged.

COMMITTEE OF THE WHOLE.

Committee of the whole.

66. When the Senate is ready to proceed to the order of the day, a motion to go into committee of the whole Senate on the order of the day shall have precedence of all other motions, except to adjourn, to take a recess, to lie on the table, and for the previous question.

How constituted.

67. In forming a committee of the whole Senate, the President shall leave the chair and appoint a chairman, who shall preside, and vote as other Senators.

Proceedings in.

68. In committee of the whole, bills shall be read by the Chairman or Clerk, and considered by sections, unless it be otherwise directed by the committee, leaving the preamble to be last considered. The body of the bill shall not be defaced or interlined, but amendments shall be noted by the Chairman or Clerk on a separate piece of paper, as the same are agreed to by the committee, and so reported to the Senate.

Proceeding upon report

69. After being reported, the bill and the amendments of the committee shall be immediately considered, unless otherwise ordered by the Senate, but shall be subject to discussion or amendment before the question to engross the bill is taken.

Rules governing.

70. The rules of proceeding in committee of the whole shall be the same as in the Senate, so far as may be applicable.

BILLS.

Bills, introduction of.

71. Every bill shall be introduced on the report of a committee or by any Senator in the regular order of business, or by leave of the Senate upon a statement of the objects of the bill. All bills proposing the amendment or repeal of any law, shall have noted in the title a distinct reference to the section or law proposed to be amended or repealed; and the Clerk of the Senate shall send no bills to be printed without such notes. All bills shall be read the second

time in the order in which they are introduced, and unless made a special order, shall be placed upon the calendar and read the third time in the order in which they are directed to third reading.

How rejected.

72. If opposition be made to the bill on the first reading, the question shall be, "Shall the bill be rejected?" If the bill is not rejected, it shall pass to a second reading in the order of proceeding.

Proceeding on second reading.

73. On the second reading of a bill the President shall state that it is ready for commitment or engrossment; if no motion or order be made to the contrary, it shall be committed to the committee of the whole Senate, to be considered in its order; if the bill be ordered to be engrossed, the Senate shall direct on what day it shall be read the third time; but no bill having been amended shall be read the third time without being actually engrossed. Amendments to all House bills, made by the Senate, shall be engrossed in like manner as Senate bills, preparatory to their third reading.

When ordered to be engrossed.

74. When a question is lost on ordering a bill to be engrossed for a third reading on a particular day, it shall not preclude a question to order it to be engrossed for a third reading on a different day, unless a division be called for; but if, on a division, the question on engrossing a bill, without including the time for its third reading, shall fail, the bill shall be considered as lost.

On third reading.

75. Bills standing in order for third reading shall be taken up and read without a motion to that effect, and (unless otherwise ordered by the Senate) the question shall be put, "Shall the bill be passed?" And in case any bill which has been set for third reading on a given day shall, for any reason be not read on that day, it shall stand for third reading on the first succeeding day when bills for third reading shall be reached in the regular order of business.

Agreement to title.

76. When a bill has passed the Senate, the President or Clerk shall read its title, and the President shall demand if the Senate agree to its title; and if the Senate is agreed the Clerk shall make out the title accordingly, and shall certify the passage of the bill upon the back thereof.

Transmission to the House.

77. No bill having been passed or resolution adopted, shall be delayed in transmission to the House because a motion for reconsideration has been made and remains undisposed of. When a motion to reconsider is laid upon the table it shall not carry the bill or resolution with it.

Recommitment.

78. After commitment and report to the Senate, or at any time before its passage, a bill or resolution may be recommitted.

How amended.

79. After bills have been read the third time they shall not be amended, except by recommitment to a committee with instructions to amend, which instructions shall

embody, substantially, the amendment or amendments proposed.

When separate vote may be taken.

80. On the passage of all bills making appropriations of money, or in concurring in House amendments thereto, a separate vote on any item or items therein shall, on demand of any five Senators, first be had by yeas and nays, entered upon the Journal; and every such item failing to receive the majority of all members elected to the Senate, required by the Constitution, shall be stricken from the bill before the vote is taken upon its final passage.

Bills must be printed.

81. All Senate bills shall be printed and distributed for the use of Senators before the second reading thereof.

Amendments to House bills.

82. In case a Senate or House bill is amended before being placed upon the calendar for third reading, the Clerk shall note the fact on the calendar that it has been amended.

RESOLUTIONS.

Resolutions. Proceedings when offered.

83, Resolutions upon their introduction in the Senate, or receipt from the House, upon being first read in the Senate, shall if any Senator give notice of a desire to discuss the proposition contained therein, lie over one day; and no motion shall be entertained which may operate to deprive any Senator of the right to give notice to discuss.

Relative to appropriations.

84. No resolution proposing to appropriate money shall be entertained. [*Sec. 22*

Art. II. Const.]; but money appropriated by law for contingent expenses of either branch of the General Assembly may be disbursed by resolution. [*State v. Oglevee, 36 O. S. 324.*]

Offered on leave.

85. Resolutions may be offered on leave, or under the head of miscellaneous business, or reported by a committee.

ADMISSION OF VISITORS WITHIN THE BAR OF THE SENATE.

Visitors. Who may be admitted.

86. During the sitting of the Senate no person shall be admitted within the bar of the Senate, except members of the two Houses, their clerks, assistants and other officers, or persons charged with any message or papers for the Senate, clergymen by invitation of the President, the Governor of this or any other State, Judges of the Courts, heads of the different departments, members of Congress, gentlemen who have been members of either branch of the Legislature of this State, and those who, for the time being, are members of the Legislature of other States, and ladies and gentlemen accompanying them visiting the Senate Chamber, together with such other persons as may, at any time, be especially invited by any member of the Senate.

Use of the Senate Chamber.

87. The use of the Senate Chamber shall not be granted, at any time, by resolution or otherwise, for any other than legislative purposes, except by unanimous consent of the Senate.

88. It shall be the duty of the Sergeant-at-Arms and his assistants to prevent smoking within the Senate Chamber during the session of the Senate. Smoking not allowed.

THE RULES OF THE SENATE.

89. These rules shall not be altered except after at least one day's notice of the intention of alteration; and no rule shall be suspended except by a vote of at least two-thirds of the Senators present. How rules may be altered.

90. Cushing's Manual shall be received as the rule in all cases not provided for in the foregoing rules, except where the Senate may determine otherwise by a yea and nay vote; and in cases not provided for in Cushing's Manual, Cushing's Law and Practice of Legislative Assemblies shall be the rule. Cushing's Manual the rule.

STANDING COMMITTEES

OF THE SENATE,

SEVENTY-FIRST GENERAL ASSEMBLY.

---

1. Judiciary.

MR. ECKLEY, Chairman.

Phillips	McConica
Abbott	Wood
Clark	Plum
Earnhart	Johnson
Laning	Stilwell

2. Finance.

MR. OHL, Chairman.

Rorick	Avery
Ramp	Hogg
Abbott	Whittlesey
Hutsinpiller	Gear

3. Municipal Corporations, No. 1.

MR. CLARK, Chairman.

Kirchner	Wood
Rothert	McMaken
Avery	Gear

4. Municipal Corporations, No. 2.

MR. MCCONICA, Chairman.

Sparks	Earnhart
Iden	Laning
Ohl	Gear

5. County Affairs.

MR. WHITTLESEY, Chairman.

Hughey	Chapman
Hardesty	Abbott
Ely	Stilwell

6. Common Schools and School Lands.

MR. WOOD, Chairman.

Avery	Iden
Ely	Plum
Laning	McMaken

7. Rail Roads and Telegraphs.

MR. PHILLIPS, Chairman.

Eckley	Ohl
Korick	Iden
Abbott	Mosgrove
Kirchner	Lawlor

8. Roads, Highways and Turnpikes.

MR. ROTHERT, Chairman.

Hogg	Chapman
Hughey	Plum
Ely	Stilwell

9. Corporations Other than Municipal.

MR. ABBOTT, Chairman.

Ramp	Wood
Phillips	McConica
Ohl	Johnson

10. Agriculture.

MR. HUGHEY, Chairman.

Hardesty	Whittlesey
Ely	Chapman
Hogg	Lawlor

11. Privileges and Elections.

MR. PLUM, Chairman.

Brown	Earnhart
Clark	Rothert
Mosgrove	Stilwell

12. Public Works and Public Lands.

MR. IDEN, Chairman.

Phillips	Ramp
Abbott	McConica
Plum	Johnson

13. Benevolent Institutions.

MR. MOSGROVE, Chairman.

Hutsinpiller	Rothert
Wood	Chapman
Iden	McMaken

14. Penitentiary.

MR. ELY, Chairman.

Wood	Hogg
Iden	Rorick
Rothert	Stilwell

15. Insurance.

MR. RORICK, Chairman.

Eckley	Ramp
Phillips	Ohl
Hogg	Gear

16 Industrial School for Boys and Girls.

MR. CHAPMAN, Chairman.

Brown	Hardesty
Mosgrove	Whittlesey
Hughey	Gear

17. Ditches and Drainage.

MR. PLUM, Chairman.

Rorick	Brown
Laning	Johnson

18. Soldiers' and Sailors' Orphans' Home and School for Imbecile Youth.

MR. HUGHEY, Chairman.

Earnhart	Hutsinpiller
Clark	Brown
Whittlesey	McMaken

19. Soldiers' and Sailors' Home.

MR. LANING, Chairman.

Avery	Ely
Hutsinpiller	Hardesty
Sparks	Gear

20. Universities and Colleges.

MR. AVERY, Chairman.

Wood	Ramp
Eckley	Johnson

21. Manufactures and Commerce.

MR. HUTSINPILLER, Chairman.

Ely	Kirchner
Sparks	Lawlor

22. Labor.

MR. BROWN, Chairman.

Sparks	Iden
Earnhart	Clark
Kirchner	Lawlor

23. Mines and Mining.

MR. HARDESTY, Chairman.

Hogg	Abbott
Eckley	Sparks
Mosgrove	Stilwell

24. Sanitary Laws and Regulations.

MR. SPARKS, Chairman.

Mosgrove	Rothert
Chapman	Hardesty
Whittlesey	McMaken

25. Fees and Salaries.

MR. RAMP, Chairman.

Sparks	Phillips
Ohl	McConica
Chapman	McMaken

26. Federal Relations.

MR. EARNHART, Chairman.

Brown	Kirchner
Clark	Whittlesey
Rorick	Johnson

27. Military Affairs.

MR. HUTSINPILLER, Chairman.

Hughey	Avery
Iden	Clark
Rothert	Gear

28. Fish Culture and Game.

MR. CHAPMAN, Chairman.

Abbott	Rorick
Laning	Lawlor

29. Public Printing.

MR. KIRCHNER, Chairman.

Brown	Laning
Mosgrove	Lawlor

30. State Buildings.

MR. EARNHART, Chairman

Avery	Ely
Kirchner	Stilwell

31. Public Expenditures.

MR. RAMP, Chairman.

Eckley	Sparks
Ohl	Lawlor

32. Geological Survey.

MR. KIRCHNER, Chairman.

McConica	Hughey
Hardesty	McMaken

33. Library.

MR. AVERY, Chairman.

Plum	Lawlor

34. Claims.

MR. WOOD, Chairman.

Eckley	Phillips
Ohl	McConica
Ramp	Gear

35. Medical Societies and Colleges.

MR. MOSGROVE, Chairman.

Earnhart	Hogg
Hutsinpiller	Plum
Hardesty	Johnson

36 Revision.

MR. CLARK, Chairman.

Eckley	Hogg
Hutsinpiller	McMaken

37. Enrollment.

MR. LANING, Chairman.

Brown	Hughey
Rothert	Stilwell

38 Rules.

MR. MCCONICA, Chairman.

Phillips	Whittlesey
Rorick	Johnson

39. Taxation.

MR. LANING, Chairman.

Whittlesey	McConica
Phillips	McMaken

NOTE—Municipal Corporations number 1 embraces the cities of Cincinnati and Cleveland. Number 2 embraces all other municipal corporations.

OFFICERS OF THE SENATE—71ST GENERAL ASSEMBLY.

Names.	Position.	Post-office address.
ANDREW L. HARRIS	*President*	Eaton.
THOMAS H. MCCONICA	*President pro tem*	Findlay.
ALEXANDER C. CAINE	*Clerk*	Columbus.
WILLIAM H. FULLER	*Journal Clerk*	Wauseon.
ROSCOE J. MAUCK	*Message Clerk*	Gallipolis.
HARRY H. MYERS	*Engrossing Clerk*	Columbus.
SAMUEL W. CLARK	*Enrolling Clerk*	Cincinnati.
H. M. ROACH	*Recording Clerk*	Caldwell.
R. F. HAYWARD	*Sergeant-at-Arms*	Springfield.
JOHN E. ERWIN	*1st Ass't Sergeant-at-Arms*	Cleveland.
W. S. COWEN	*2d* " " "	St. Clairsville.
R. B. CRAWFORD	*3d* " " "	Massillon.
P. FOLKERTH	*4th* " " "	Camden.

MEMBERS OF THE SENATE—71ST GENERAL ASSEMBLY.

Names.	Politics.	Districts.	County.	Post-office.	Occupation.
Abbott, John Q.....	R	9–14	Morgan.....	McConnelsville ...	Attorney.
Avery, Elroy M.....	R	25	Cuyahoga...	Cleveland	Author.
Brown, McPherson.....	R	12	Miami	Piqua.....	Sheet-roller.
Chapman, Henry M....	R	25	Cuyahoga...	East Cleveland....	Farmer.
Clark, William T.....	R	25	Cuyahoga...	Cleveland	Attorney.
Earnhart, Moses B.....	R	10	Franklin ...	Columbus	Attorney.
Eckley, Harvey J.....	R	21	Carroll	Carrollton	Attorney.
Ely, George H.....	R	27–29	Lorain.....	Elyria.....	Manufacturer.
Gear, William C.....	D	31	Wyandot ...	Upper Sandusky..	Attorney.
Hardesty, Walter S.....	R	18–19	Monroe.....	Malaga.....	Merchant.
Hogg, Charles M.....	R	20–22	Harrison ...	Cadiz.....	Banker & Farmer.
Hughey, James M.....	R	5–6	Highland ...	Greenfield.....	Farmer.
Hutsinpiller, John C...	R	8	Gallia	Gallipolis	Manufacturer.
Iden, George.....	R	15–16	Licking	Newark.....	Teacher.
Johnson, James D.....	D	32	Mercer.....	Celina.....	Attorney.
Kirchner, Frank.....	R	1	Hamilton ..	Cincinnati.....	Contractor.
Laning, Jay F.....	R	30	Huron	Norwalk.....	Publisher.

Lawlor, Henry J.....	D	32	Allen	Lima.....	Merchant Tailor.
McConica, Thomas H..	R	33	Hancock....	Findlay.....	Attorney.
McMaken, Joseph J....	D	2-4	Butler.....	Hamilton	Attorney.
Mosgrove, Samuel M..	R	11	Champaign	Urbana.....	Physician.
Ohl, Lemuel C.....	R	23	Mahoning..	Mineral Ridge.....	Farmer & Teacher
Phillips, Dudley B.....	R	7	Adams	Manchester	Attorney.
Plum, Walter S.....	R	13	Logan	Bellefontaine	Attorney.
Ramp, Samuel W	R	1	Hamilton ..	Cincinnati	Bank cashier.
Rorick, John C.....	R	33	Fulton	Wauseon	Banking & Ins.
Rothert, Herman H....	R	1	Hamilton ..	Cincinnati..	Merchant.
Sparks, William E.....	R	3	Montg'm'y.	Dayton.....	Machinist.
Stilwell Newton.....	D	17-28	Holmes.....	Millersburg	Attorney.
Whittlesey, Friend.....	R	24-26	Portage.....	Atwater Station...	Farmer.
Wood, John A. B.....	R	20-22	Jefferson....	Steubenville.....	Attorney.

CUSTODIAN OF CLOAKROOM OF THE SENATE.

R. F. Pollock	Findlay

DOORKEEPERS OF THE SENATE.

J. K. Foster	Portsmouth
B. F. Ford	Newark

PAGES OF THE SENATE.

John M. Breen	Chillicothe
Andrew Deming	Cleveland
Thomas Herron	Wyoming
Chester Holmes	Toledo
Charles Hunter	Niles
Everett Kennedy	Alcony
John Wickham	Westerville

PORTERS OF THE SENATE.

Henry Adams	Columbus
G. W. Coleman	Youngstown
Morgan Evans	Glen Roy
S. R. Frances	Newark
A. H. Griffiths	Windsor
N. Hocking	Massillon
H. C Lowrie	Cleveland
Edward Norris	Steubenville
A. P. Sheridan	McConnellsville
D. C. Walters	Caldwell

JOINT RULES.

RULE I. Whenever the two branches of the General Assembly shall convene for any purpose required by the Constitution or Laws of the State, such convention shall be held in the hall of the House of Representatives, unless otherwise ordered by a joint resolution of the two branches. During all such conventions each branch shall be held to be in session as a separate branch of the General Assembly, and be governed by its own rules; and except in voting at elections, where each member is entitled to a separate vote, shall act as such, and no question shall be considered as carried otherwise than by the concurrent action of both branches; provided, that either branch may, by a vote of a majority of all its members, dissolve such convention by withdrawing therefrom; and such convention may, by the concurrent vote of the two branches, take a recess, or adjourn to a time certain; but such recess or adjournment of the convention shall not be held to be an adjournment or recess of either branch, nor to prevent either from proceeding with its usual business during such recess or adjournment of the convention.

RULE. 2. In all elections in joint session, a majority of the votes cast shall be necessary to a choice.

RULE 3. All messages shall be conveyed by the Sergeant-at-Arms of the house from which they are sent;

and in case of the absence or inability of the Sergeant-at-Arms, then by such person as the President or Speaker (as the case may be) may designate for that purpose.

RULE 4. When a message shall be sent by either house to the other, it shall be immediately announced at the bar of the house to which it is sent, by the Sergeant-at-Arms, and shall be by the bearer delivered to the Clerk of the other branch at his desk, who shall read the same to the house, to which it belongs, in accordance with the rules or orders of the house to which it is to be read.

RULE 5. After a bill or joint resolution has passed one house, and is amended and returned by the other house, it shall not be in order for either house to postpone such bill or joint resolution beyond the session; but all differences between the two houses relative to amendments may be submitted to a committee of conference.

RULE 6. In all cases of differences between the two houses relative to amendments, the order shall be to insist, in the first instance, before adhering, and the first adherence by either house shall preclude a committee of conference.

RULE 7. Committees of conference shall be appointed whenever any disagreement of opinion shall exist between the two houses, which committees shall report the result of their deliberations to their respective houses, and it shall be the duty of that house in which any bill, resolution, or measure was last acted upon, to request a committee of conference.

RULE 8 Whenever any committees of conference of the two houses shall disagree, other committees may be appointed; and if either of the two houses shall disagree to any report of a committee of conference, such

house shall forthwith notify the other of such disagreement, and request another committee of conference; and thereupon another committee shall be appointed.

RULE 9. When a bill or joint resolution shall have passed either house, notice thereof shall forthwith be given to the other house.

RULE 10. When a bill or joint resolution which shall have been passed in one house is rejected in the other, or postponed beyond the session thereof, notice shall be given to the other house.

RULE 11. When any bill shall have passed one house, and shall be amended in the other, the amendments shall be engrossed upon a separate piece of paper, and the bill, as amended, shall be fully engrossed, and both returned, with the engrossed bill received from the other house, to the house in which it originated. In such engrossments, sections of bills and joint resolutions amended shall be engrossed in a plain engrossing hand. Whenever a bill shall be passed in one house and sent to the other, and a substitute therefor is agreed to by such house, in the communication between the houses such substitute shall be designated and treated as an amendment to the original bill, and the message relating thereto shall definitely show, as in the case of other amendments, how the original bill is amended.

RULE 12. In all bills introduced in either house amending existing statutes, any new matter contained therein shall be printed in italics, and authors of bills shall indicate such new matter by underscoring the same, and no bill so introduced shall be sent to the printer to be printed unless the new matter therein contained shall be so underscored, and the clerk shall notify the author of any bill which does not conform to this requirement.

RULE 13. After a bill shall have passed both houses, it shall be enrolled by the Clerk of the house in which it originated.

RULE 14. When a bill or joint resolution is enrolled, it shall be examined by a joint committee of five members from each house, to be appointed a standing committee for that purpose, whose duty it shall be to compare the enrolled with the engrossed bill or joint resolution passed by the two houses, and correct any clerical errors which may be discovered, and report forthwith to their respective houses, the report to be signed by a majority of the joint committee.

RULE 15. No bill shall be subject to amendment, commitment, or other action of either house, after the enrolling committee shall have reported the same correctly enrolled.

RULE 16. Each bill and joint resolution shall be first signed by the Speaker of the House of Representatives, and then by the President of the Senate; who shall fix the date thereto, and be by him delivered to the Clerk of the Senate, who shall immediately deposit the same in the office of the Secretary of State, and take his receipt therefor, which receipt shall be filed with the papers of the Senate.

RULE 17. When a bill or joint resolution shall have passed either house, and been sent to the other for concurrence, such bill or joint resolution shall take precedence on the calendar of all bills, joint resolutions or resolutions not yet passed or adopted by the house in which they originated; provided, that such bills or joint resolutions shall not take precedence of other bills or joint resolutions which may have been carried over from an unfinished calendar.

RULE 18. The chairman of each committee of the Senate and House of Representatives shall, at some time before the final consideration of any bill referred to his committee, if objection thereto be made or material amendment offered in committee, give verbal or written notice to the author of the bill, fixing a time when he may be heard by the committee.

RULE 19. The Clerks of the Senate and House of Representatives shall cause a calendar for each branch of the General Assembly to be printed and placed upon the desk of each Senator and Representative before the opening of each daily session, showing for the day, bills for second reading, the bills for third reading, the special orders of the day, and the bills in committee of the whole.

RULE 20. When an amendment is made in one house to a bill or joint resolution which originated in the other, it shall require the same number of votes to concur in the amendment in the house in which the bill or resolution originated, as was required to pass the bill or resolution.

RULE 21. All committees of conference shall consist of three on the part of the Senate, and three on the part of the House, unless otherwise specially ordered by both houses.

RULE 22. On the adoption of all joint resolutions, the yeas and nays shall be called in each house.

HOUSE RULES.

DUTIES OF THE SPEAKER.

To take the chair.

RULE 1. The Speaker shall take the chair every day precisely at the hour to which the house shall have adjourned, or taken a recess, and shall immediately call the members to order.

Examine the Journal,

RULE 2. The Speaker shall examine and correct the Journal before it is read.

May call member to preside.

RULE 3. The Speaker may name any member to perform the duties of the chair; but such substitution shall not extend beyond an adjournment.

Has supervision of House.

RULE 4. The Speaker shall have a general direction of the hall, and shall preserve order and decorum in the proceedings of the House; and in case of any disturbance or disorderly conduct in the galleries or lobby, the Speaker, or Chairman of the committee of the whole, may cause the same to be cleared.

To appoint committees.

RULE 5. The Speaker shall appoint all committees, unless it shall be otherwise ordered by the House, in which case they shall be appointed by a vote of the House.

Sign bills, etc.

RULE 6. The Speaker shall, in the presence of the House, while the same is in

session, sign all acts, addresses and joint resolutions, when passed by both houses; and all writs, warrants, and subpœnas, issued by order of the house, shall be under his hand, attested by the clerk, except otherwise provided by law.

When the Clerk shall call the House to order.

RULE 7. When both the speaker and speaker pro tem. are absent, at the hour to which the house shall have adjourned, or taken a recess, except in the case mentioned in Rule 3, the clerk shall call the house to order, and the house shall proceed to choose some member to act as such until either the speaker or speaker pro tem. shall be present.

DUTIES OF MEMBERS.

Addressing the Speaker.

RULE 8. Whenever a member is about to speak he shall rise from his seat and respectfully address himself to "Mr. Speaker;" and the speaker shall announce the member from the county he represents; and if there be more than one representative from such county, then by adding the name of the member.

Who may speak first.

RULE 9. In all cases, the member who shall first rise and address the chair, shall speak first; but when two or more members shall rise at once, the speaker shall name the member who is first to speak.

May speak from another's seat.

RULE 10. A member may speak, either from his seat, or from the seat of any other member, tendered him for that purpose, or from the clerk's stand.

May speak but twice.

RULE 11. No member shall speak more than twice on the same question unless by leave of the house; and he shall confine himself to the question under debate, and avoid personality.

May read from books.

RULE 12. Any member, while discussing a question, may read from books, papers, or documents, any matter pertinent to the subject under consideration, without asking leave.

Statement of question.

RULE 13. Any member may call for a statement of the question, which the speaker may give sitting.

May call for division.

RULE 14. Any member may call for a division of the question, and the decision of the speaker, as to its divisibility, shall be subject to appeal, as in questions of order.

Must vote.

RULE 15. Every member present, when the question is put, shall vote, unless the house excuse him.

When may be excused from voting.

RULE 16. A request to be excused from voting, or an explanation of a vote, shall not be in order, unless made before the house divides, or before the call of the yeas and nays is commenced.

Explaining a vote.

RULE 17. Any member requesting to be excused from voting, or desiring to explain his vote, may make a brief oral statement of the reasons for making such request, and the question of excusing such member shall then be taken without further debate.

Of decorum.

RULE 18. While the speaker or chairman is putting any question or addressing

the house, no one shall walk across the hall.

Same.

RULE 19. When a member is speaking, no one shall pass between him and the chair.

Shall not be at Clerk's table during roll-call.

RULE 20. No member or other person, shall remain at the clerk's table while the yeas and nays are being called or ballots counted, except the clerk and his assistants.

Demand for the yeas and nays.

RULE 21. Any two members may demand the yeas and nays upon any question before the House divides; and, upon the call for the yeas and nays, the Clerk shall call over the names alphabetically.

Call of the House.

RULE 22. Any three members may demand a call of the House, and upon such call the names of the members shall be called alphabetically, and the absentees shall be noted and sent for, unless otherwise ordered by the House.

ORDER OF BUSINESS.

Business.

RULE 23. As soon as the House is called to order prayer may be offered, and, a quorum being present, the Journal of the preceding day shall be read, and, if necessary, corrected by the House.

Its order.

RULE 24. After the Journal has been read and approved, the order of business on Mondays and Saturdays, and on Tuesdays, when the House has not been in session on the preceding day, shall be as follows:

1. Presentation of petitions and memorials.

2. Resolutions and motions.

3. Introduction of bills—counties to be called in alphabetical order.

4. Bills for their second reading.

5. Reports of standing committees in their order.

6. Reports of select committees.

7. Resolutions laid over under rule 85.

8. Bills for their third reading.

On all other legislative days, the order of business shall be as follows:

1. Bills for their third reading.

2. Resolutions laid over under rule 85.

3. Reports of standing committees.

4. Reports of select committees.

5. Bills for their second reading.

6. Introduction of bills—counties to be called in alphabetical order.

7. Resolutions and motions.

8. Presentation of petitions and memorials.

Not to be changed.

RULE 25. The order of business shall not be changed, unless by unanimous consent, or a suspension of the preceding rule.

Special order.

RULE 26. Any matter may be made a special order for a particular hour of a day, by a majority of the members present.

Privileged reports.

RULE 27. The committees on Enrollment and on Revision may report at any time when the house is not otherwise engaged.

Petitions and memorials.

RULE 28. Every petition and memorial shall be referred on motion, without put-

ting the question for that purpose, unless the reference is objected to by a member at the time of its presentation.

Messages and communications.

RULE 29. Messages from the Senate, and communications from either branch of the Executive department of the State may be received, read and disposed of at any time, except when the Speaker is putting a question, while the yeas and nays are being called, or while ballots are being counted.

Of recess.

RULE 30. The interim between any two sessions of the House, on the same day, or between two or more calendar days, when the House shall so order, shall be termed a recess; and, on re-assembling at the appointed hour, any question pending at the time of taking a recess, shall be resumed without any motion to that effect.

Hour of adjournments and recesses.

RULE 31. The hour to which the House shall stand adjourned, from day to day, shall be to ten o'clock, A. M.; and when the House takes a recess, it shall be until half past two o'clock, P. M. of the same day, unless otherwise ordered by the House.

OF MOTIONS AND QUESTIONS.

Motions in writing.

RULE 32. Every motion shall be reduced to writing, if the speaker or any member shall desire it.

Stating of motions.

RULE 33. When a motion is made, it shall be stated by the speaker; or being in writing, it shall be read audibly to the House by the speaker or clerk, before debate.

Motion may be withdrawn.

RULE 34. After a motion is stated by the speaker or read by the clerk, it shall be in possession of the house, but may be withdrawn, by leave of the house, at any time before a decision or amendment.

Priority of questions.

RULE 35. All questions, whether in committee or house, except privileged questions, shall be put in the order in which they are made, except in filling blanks, the largest sum or number and longest time shall be put first.

Statement of questions.

RULE 36. Questions shall be distinctly put in this form: "You who are of opinion (as the case may be) say aye," and after the affirmative vote is expressed, "Those of a contrary opinion say no." If the speaker doubt, or a division be called for, the house shall divide; those in the affirmative of the question first rising from their seats, and afterwards those in the negative, and the speaker shall determine by count, announcing the number.

Order of motions.

RULE 37. When a question is under consideration, no motion shall be in order except the following, which motions shall have precedence in the order named:

1. To adjourn.
2. To take a recess.
3. To proceed to the orders of the day.
4. To lie on the table.
5. For the previous question.
6. To postpone to a day certain.
7. To commit.

8. To amend.
9. To postpone indefinitely.

Roll call precludes motions.

RULE 38. After the Clerk has commenced to call the yeas and nays on any question, no motion shall be in order until a decision has been announced by the Chair.

Of reference to committees.

RULE 39. When a motion is made to commit to the committee of the whole or a standing committee, it shall not be in order to amend such motion by substituting any other committee; but if any other committee be suggested, the motion shall be put, first upon the committee or committees suggested, in the order in which they are named; but a motion to refer to the committee of the whole, to a standing committee, or to a select committee, shall have precedence in the order here named.

Of motions to postpone.

RULE 40. A motion to postpone to a day certain, or indefinitely, being decided, shall not be again allowed at the same stage of the bill or proposition.

Of motions to adjourn.

RULE 41. A motion to adjourn being decided in the negative, shall not be again entertained until some motion, call, order, or debate shall take place.

Question decided without debate.

RULE 42. The following questions shall be decided without debate:

1. To adjourn.
2. To take a recess.
3. To lie on the table.
4. The previous question.
5. To take from the table.

6. To go into the committee of the whole on the order of the day.

7. All questions relating to the priority of business.

OF AMENDMENTS.

Amendments.

RULE 43. No motion or proposition upon a subject differing from that under consideration shall be admitted under color of amendment.

Divisible questions

RULE 44. A motion to strike out and insert shall be deemed divisible; and a motion to strike out on a division being negatived, and a motion to insert being decided in the affirmative, shall be equivalent to agreeing to the matter in that form, provided that substitutes for bills or resolutions shall, for the purpose of amendment, be treated as original propositions.

RECONSIDERATION.

Who may reconsider.

RULE 45. A motion to reconsider a vote must be made by a member voting with the prevailing side, and such motion, to be in order, must be made within the next three calendar days of actual session of the House after such vote was taken; and the same shall take precedence of all other questions, except a motion to adjourn.

Majority of quorum to reconsider.

RULE 46. The vote on any question may be reconsidered by a majority of the members, a quorum being present.

Of bills lost.

RULE 47. When a bill or resolution is lost, and the vote is reconsidered, it shall

not thereafter be committed to any other than a standing committee.

PREVIOUS QUESTION.

Form of and demand for previous question.

RULE 48. The previous question shall be in this form: "Shall the debate now close?" It shall be permitted when demanded by five or more members; and must be sustained by a majority vote, and, until decided, shall preclude further debate, and all amendments and motions, except one motion to adjourn, and one motion to lie on table.

No discussion while pending.

RULE 49. All incidental questions, or questions of order, arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

When call of House may be ordered.

RULE 50. On a motion for the previous question, and prior to voting on the same, a call of the House shall be in order: but after the demand for the previous question shall have been sustained, no call shall be in order; and the House shall be brought to an immediate vote—first upon the pending amendments in the inverse order of their age, and then upon the main question.

When not sustained.

RULE 51. If a motion for the previous question be not sustained, the subject under consideration shall be proceeded with the same as if the motion had not been made.

QUESTIONS OF ORDER.

Members may be called to order.

RULE 52. If any member, in speaking or otherwise, transgress the rules of the House,

the Speaker shall, or any member may, call call him to order, and the member called to order shall take his seat if required to do so by the Speaker, until the question of order is decided.

Speaker to decide all.

RULE 53. All questions of order shall be decided by the Speaker without debate; but such decision shall be subject to an appeal to the House by any two members.

Of appeals from decision.

RULE 54. On an appeal from the decision of the chair, no member shall speak more than once, unless by leave of the House, except the member appealing, who may speak twice; and the Speaker may speak in preference to any other member.

Speaker has preference.

When member may proceed.

RULE 55. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed without leave of a majority of the House.

Members to state words objected to

RULE 56. If a member call another to order for words spoken in debate, he shall, (if required by the Speaker or the member called to order), reduce to writing the language used by the member which he deemed out of order.

To be noted by Clerk.

RULE 57. All questions of order, with the decisions thereon, from which an appeal shall have been taken, shall be noted by the Clerk, and put together at the end of the Journal at each session, together with the reasons given by the Speaker for his decisions.

OF COMMITTEES.

RULE 58. There shall be appointed at the commencement of the session, the following standing committees, each to consist of seven members, except the committees on Agriculture, Asylum for the Insane, Finance, Municipal Affairs, Public Works, Railroads and Telegraphs, and on Taxation, which shall each consist of nine members, except also the committee on Judiciary, which shall consist of eleven members, and the committee on Rules, which shall consist of five members, including the Speaker, who shall be a member *ex officio:*

1. Agriculture.
2. Asylums for the Insane.
3. Blind Asylum.
4. Boys' Industrial School.
5. Claims.
6. Common Schools.
7. Corporations.
8. County Affairs.
9. Dairy and Food Products.
10. Deaf and Dumb Asylum.
11. Ditches, Drains and Water Courses.
12. Elections.
13. Enrollment (Joint Committee).
14. Federal Relations.
15. Fees and Salaries.
16. Finance.
17. Fish Culture and Game.
18. Geology, Mines and Mining.
19. Girls' Industrial Home.
20. Institution for Feeble-minded Youth.

21. Insurance.
22. Judiciary.
23. Labor.
24. Library.
25. Manufactures and Commerce.
26. Medical Colleges and Societies.
27. Military Affairs.
28. Municipal Affairs.
29. Ohio Hospital for Epileptics.
30. Prisons and Prison Reform.
31. Privileges.
32. Public Buildings and Lands.
33. Public Printing.
34. Public Ways.
35. Public Works.
36. Railroads and Telegraphs.
37. Revision.
38. Rules.
39. Soldiers' and Sailors' Home.
40. Soldiers' and Sailors' Orphans' Home.
41. Taxation.
42. Temperance.
43. Turnpikes.
44. Universities and Colleges.
45. Working Home for the Blind.

Committees, appointment and number.

RULE 59. Any member may decline to serve on any committee, if, at the time, he is a member of three other committees.

Chairman.

RULE 60. The first named member of any committee shall be the Chairman, unless the committee, by a majority of their number, choose some other member.

Reports of committees.

RULE 61. All reports of committees shall be signed by a majority of the members thereof, and the report, with the name of the member or members signing the same,

shall be read by the Clerk or at the Clerk's desk by the member making the report, without a motion, unless the reading be dispensed with by a majority of the House.

Shall not sit during sessions.

RULE 62. No committee shall sit during the daily sessions of the House, unless by special leave.

OF THE COMMITTEE OF THE WHOLE.

Committee of the whole —order of business in.

RULE 63. When the House shall be ready to proceed to the orders of the day, a motion to go into committee of the whole on the orders of the day shall have precedence of all other motions, except to adjourn, to take a recess, and for the previous question.

How formed.

RULE 64. In forming the committee of the whole, the Speaker shall leave the chair, and appoint a Chairman, who shall preside and vote as other members.

Order of business.

RULE 65. In the committee of the whole, bills shall be read by the Chairman, or Clerk, and be considered by sections, unless it shall be otherwise directed by the committee, leaving the preamble to be last considered.

How proceedings kept.

RULE 66. The body of the bill shall not be defaced or interlined, but amendments shall be noted by the Chairman, or Clerk, on a separate piece of paper as the same shall be agreed to by the committee, and so reported to the House.

Action on reports of

RULE 67. After being reported, the bill and amendments of the committee shall be

immediately taken up for consideration, unless it shall be otherwise ordered by the House, and again be subject to discussion or amendment, before the question to engross shall be taken.

Of rules governing.

RULE 68. The rules of proceeding in the committee of the whole shall be the same as in the House, as far as may be applicable.

OF BILLS.

Order of consideration of

RULE 69. All bills shall be placed on the calendar and considered in the order in which they were introduced, unless otherwise provided.

On rejection of

RULE 70. If opposition to the bill be made on first reading, the question shall be: "Shall the bill be rejected?" If the bill be not rejected it shall pass to a second reading in the order of proceeding.

Shall be printed.

RULE 71. All bills shall be printed and distributed for the use of the members before the second reading thereof, in the order in which they were introduced.

Second reading.

RULE 72. On the second reading of a bill the Speaker shall state that it is ready for commitment or engrossment; and, if no motion or order be made to the contrary, it shall be committed to the committee of the whole to be considered in its order.

Of bills in committee of the whole.

RULE 73. When a bill has been referred to the committee of the whole, the House shall determine on what day it shall be considered by the committee.

Of third readings.

RULE 74. When a bill is ordered to be engrossed; the House shall direct on what day it shall be read the third time.

Senate bills to be re-engrossed when amended.

RULE 75. All the Senate bills, when altered or amended by the House, shall be engrossed in like manner as House bills preparatory to their third reading; and all bills ordered to be engrossed shall be executed as required by the joint rules.

To go to revision committee.

RULE 76. Every bill when engrossed, and before being placed on the calendar for third reading, shall be referred to the committee on revision, and such committee shall carefully revise the phraseology thereof, and re-arrange the sections when necessary, carefully preserving the true intent and meaning of such bill, as ordered to be engrossed, and report the same back to the House.

Question of engrossment.

RULE 77. When a question is lost on engrossing a bill for a third reading on a particular day, it shall not preclude a question to engross it for a third reading on a different day, unless a division be called for; but if on a division, the question on engrossing a bill, without including the time for its third reading, shall fail, the bill shall be lost.

Bills on calendar taken up without motion.

RULE 78. Unless otherwise ordered by a two-thirds vote of the House, bills on the calendar for third reading shall be taken up and read in their order without a motion to that effect, and the question shall be: 'Shall the bill pass?"

Of recommitment.

RULE 79. After the commitment and report thereon to the House, or at any time before its passage, a bill may be recommited.

How amended.

RULE 80. After a bill has been read a third time, it shall not be amended, except by reference to a committee with instructions to amend; which instructions shall embody, substantially, the amendment proposed, and such amendment shall be reported back, forthwith, unless otherwise ordered by the House.

Only one part of bill to be amended in same motion.

RULE 81. When a bill is on its third reading any number of references may be made, with instructions to amend; but pending a motion to refer, with instructions to amend one part of the bill, it shall not be in order to amend the instructions by directing an amendment of any other part of the bill. One amendment shall not prevent another in any other part of the bill.

Bills not to be united.

RULE 82. No bill or resolution shall, at any time, be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House.

Separate vote on items.

RULE 83. On the passage of all bills making appropriations of money, or in concurring in Senate amendments thereto, a separate vote on any item, or items therein, shall, on demand of any ten members, first be had by yeas and nays, and entered upon the journal; and every such item failing to receive the majority of all the

members elected to the House shall be stricken from the bill before taking the vote upon its final passage.

Of the title.

RULE 84. When a bill has passed the House, the Speaker shall read its title, substituting the word "act" for the word "bill," and shall demand if the House agree to the title; and if the House is agreed the Clerk shall make out the title accordingly, and shall certify the passage of the bill upon the back thereof.

OF RESOLUTIONS.

Resolutions to lie over.

RULE 85. The following resolutions, except such as relate to the business of the day on which they are offered, shall lie over one day before being considered:

1. All joint resolutions.
2. House resolutions giving rise to debate.

Yeas and nays on.

RULE 86. Upon the adoption of a resolution involving the expenditure of money, or having the force and effect of law, or which determines or involves the right of a member to a seat in the House, the yeas and nays shall be taken and entered on the Journal.

Votes required on.

RULE 87. No resolution involving the expenditure of money, or having the force and effect of law, or which determines or involves the right of a member to a seat in the House, shall be adopted, unless a majority of all the members elected to the House concur therein.

COMPENSATION FOR EMPLOYES.

As to extra compensation of employes.

RULE 88. No compensation, allowance, or perquisite shall be voted to any officer, employe, or appointee of the House other than that prescribed by law, and this rule shall not be altered or suspended except on three days' notice, and by a two-thirds vote of all the members elected to the House.

PRIVILEGES.

RULE 89. During the session of the House, no person shall be admitted within the hall of the House, excepting the following:

Persons admitted to House.

1. Members of the two Houses, their clerks, assistants and other officers or persons charged with any message or paper for the House.

2. Clergymen by invitation of the Speaker.

3. The Governor of this or any other State.

4. Judges of the Courts of this State.

5. Heads of the different departments.

6. Members of Congress.

7. Ex-members of the General Assembly.

Visitors not to remain on raised platform.

RULE 90. During the session of the House no person, other than a member or an officer of either House, shall be permitted upon the raised platform appropriated for the desks and seats of the members. No smoking shall be permitted in the body of the hall of the house.

Giving use of hall.

RULE 91. The use of the hall of the House shall not, at any time, by resolution or otherwise be granted for any other than legislative purposes, unless by a suspension of the rules.

Reporters.

RULE 92. Reporters for newspapers and stenographers wishing to report debates or proceedings, may be admitted within the bar of the House by the Speaker, who shall assign such places to them as shall not interfere with the the convenience of the House; and the names of such persons so admitted, and the newspapers for which they respectively report, shall be announced by the speaker, and entered on the Journal.

Abuse of privileges.

RULE 93. Upon complaint, in writing, made by any member of the House, addressed to the Speaker, that any reporter or stenographer so admitted has abused the privileges granted him under the preceding rule, such complaint shall be referred to the standing committee on Privileges for investigation, and such committee shall notify the person so charged of the time and place for hearing, and if such accusation be sustained, such person or persons upon the report of the committee, shall be debarred from the privileges therein granted.

CALENDAR.

Order of bills on.

RULE 94. Bills for their third reading, and all special orders, shall be placed upon the calendar in the order of priority in which the order is made.

Bills not disposed of.

RULE 95. Bills for their third reading on a particular day, not reached on that day, shall be placed first on the calendar in the order of third readings of each succeeding day, until disposed of.

When may be taken up out of order.

RULE 96. No bill upon the calendar shall be taken up out of its order thereon, except by a two-thirds vote of the House.

OF THE RULES.

How rules may be altered.

RULE 97. These rules shall not be altered except after at least three legislative days' notice of the intended alteration, and by a vote of a majority of all the members elected to the House.

How to suspend rules.

RULE 98. No rule shall be suspended except by a vote of at least two-thirds of all the members present; provided, that rule 88 shall not be altered or suspended, except as herein prescribed.

Cushing's law to be received.

RULE 99. Cushing's Law and Practice of Legislative Assemblies shall be received as a rule in all cases not provided for in the foregoing rules.

STANDING COMMITTEES

OF THE

HOUSE OF REPRESENTATIVES,

SEVENTY-FIRST GENERAL ASSEMBLY.

Agriculture.

MR. RICHARDS of Portage, Chairman.

Dunn of Morgan,	Sherer of Montgomery,
Heller of Lucas,	Rogers of Morrow,
Rutherford of Meigs,	Beaumont of Licking,
Green of Noble,	Haas of Pickaway.

Asylums for the Insane.

MR. HARLAN of Clinton, Chairman.

Breck of Cuyahoga,	Stewart of Hamilton,
Carvin of Williams,	Vanpelt of Jackson,
Jacobs of Gallia,	Brubaker of Ashland,
Sleeper of Athens,	Hoffman of Putnam.

Blind Asylum.

MR. BRITTAIN of Columbiana, Chairman.

Sherer of Montgomery,	Deaton of Miami,
Miller of Cuyahoga,	Hill of Hamilton,
Barber of Guernsey,	Bayhan of Pike.

Boys' Industrial School.

MR. WELSH of Knox, Chairman.

Huffman of Van Wert,	Lewis of Hamilton,
Green of Noble,	McConnell of Lawrence,
Bell of Muskingum,	Farrell of Fairfield.

Claims.

MR. SOUTHARD of Logan, Chairman.

Hard of Scioto,
Dye of Hamilton,
Walton of Wyandot,
Lane of Franklin,
Beaumont of Licking,
Taylor of Crawford.

Common Schools.

MR. TAYLOR of Jefferson, Chairman.

Hunter of Champaign,
Reed of Huron,
Keefer of Sandusky,
Deaton of Miami,
Hill of Hamilton,
Paxton of Clermont.

Corporations.

MR. MONTGOMERY of Mahoning, Chairman.

Bosler of Montgomery,
Richards of Portage,
Brittain of Columbiana,
Taylor of Jefferson,
Paxton of Clermont,
McBride of Richland.

County Affairs

MR. HASKELL of Lorain, Chairman.

Ganyard of Medina,
Welsh of Knox,
Metcalf of Ross,
Carvin of Williams,
Harris of Ashtabula,
Rusler of Allen.

Dairy and Food Products

MR. SOUTHARD of Union, Chairman.

McLaughlin of Harrison,
Rutherford of Meigs,
Reed of Huron,
Heofler of Darke,
Harshbarger of Shelby,
Moore of Monroe.

Deaf and Dumb Asylum.

MR. DUNN of Morgan, Chairman.

Lewis of Delaware,
Aker of Preble,
Strong of Hamilton,
Bright of Hancock,
Clifford of Cuyahoga,
Landis of Butler.

Ditches, Drains and Water Courses.

MR. ELY of Fulton, Chairman.

Heller of Lucas,
Gray of Fayette,
Southard of Union,
Bright of Hancock,
Haas of Pickaway,
ClenDening of Mercer.

Elections.

MR. DODGE of Cuyahoga, Chairman.

DeWitt of Paulding,
Hart of Lake,
Cannon of Hamilton,
Lane of Franklin,
Cummings of Greene,
Olmstead of Holmes,
Farrell of Fairfield.

Enrollment—Jo nt Committee.

MR. LEWIS of Hamilton, Chairman.

Walton of Wyandot,
Rochester of Hocking,
Farrell of Fairfield,
Russler of Allen,
Taylor of Crawford.

Federal Relations

MR. DEWITT of Paulding, Chairman.

Ward of Erie,
Haskell of Lorain,
Montgomery of Mahoning,
Heoffer of Darke,
Beaumont of Licking,
Brorein of Auglaize.

Fees and Salaries.

MR. CLIFFORD of Cuyahoga, Chairman.

Ely of Fulton,
James of Wood,
Keefer of Sandusky,
Bevis of Hamilton,
Rochester of Hocking,
Flumerfelt of Seneca.

Finance.

MR. DOTY of Cuyahoga, Chairman.

Ely of Fulton,
Brittain of Columbiana,
Hard of Scioto,
Rice of Hardin,
Elder of Clark,
Thomas of Stark,
Fisher of Brown,
Brorein of Auglaize.

Fish Culture and Game

MR. PALMER of Cuyahoga, Chairman.

Kelly of Ottawa,
Ganyard of Medina,
Reed of Huron,
Strong of Hamilton,
Huffman of Van Wert,
Flumerfelt of Seneca.

Geology, Mines and Mining

MR. TRACY of Tuscarawas, Chairman.

McConnell of Lawrence,
Kelly of Perry,
Strong of Hamilton,
Vanpelt of Jackson,
Merion of Franklin,
Haas of Pickaway.

Girls' Industrial Home.

MR. LEWIS of Delaware, Chairman.

Harris of Ashtabula,
Jones of Trumbull,
Hutcheson of Columbiana,
Southard of Union,
Elder of Clark,
Meyers of Henry.

Hospital for Epileptics

MR. JACOBS of Gallia, Chairman.

Jones of Trumbull,
Walton of Wyandot,
Gray of Fayette,
Rochester of Hocking,
Landis of Butler,
Brubaker of Ashland.

Institution for Feeble-Minded Youth.

MR. ROWLEN of Stark, Chairman.

Jones of Trumbull,
Dunn of Morgan,
Southard of Logan,
Hale of Summit,
Webb of Cuyahoga,
Taylor of Crawford.

Insurance.

MR. WEBB of Cuyahoga, Chairman.

Welsh of Knox,
Rowlen of Stark,
Hart of Lake,
Kreis of Hamilton.
Spooner of Seneca,
ClenDening of Mercer,
Flumerfelt of Seneca.

Judiciary.

MR. SLEEPER of Athens, Chairman.

Locke of Madison,	DeWitt of Paulding,
Bosler of Montgomery,	James of Wood,
Kelly of Perry,	Beckham of Lucas,
Rowlen of Stark,	McBride of Richland,
Dye of Hamilton,	Winn of Defiance.

Labor.

MR. RUEHRWEIN of Hamilton, Chairman.

Thomas of Clark,	Clifford of Cuyahoga
Beckham of Lucas,	Jacobs of Gallia,
Merion of Franklin,	Moore of Monroe

Library.

MR. WOOD of Washington, Chairman.

Richards of Portage,	Palmer of Cuyahoga,
Ruehrwein of Hamilton,	Hard of Scioto,
Hunter of Champaign,	Fisher of Brown.

Manufacturers and Commerce.

MR. HEINLEIN of Belmont, Chairman.

Thomas of Stark,	Kreis of Hamilton,
Bright of Hancock,	Felton of Franklin,
Glenn of Highland,	Olmstead of Holmes

Medical Colleges and Societies.

MR. REED of Huron, Chairman.

Shuler of Montgomery,	Carvin of Williams,
Jones of Trumbull,	Deaton of Miami,
Jacobs of Gallia,	Bayhan of Pike.

Military Affairs.

MR. RUTHERFORD of Meigs, Chairman.

Wood of Washington,	Metcalf of Ross,
Felton of Franklin,	Palmer of Cuyahoga,
Green of Noble,	Meyers of Henry.

Municipal Affairs.

MR. MILLER of Cuyahoga, Chairman.

Griffin of Lucas,	Bell of Muskingum,
Hale of Summit,	Heinlein of Belmont,
Felton of Franklin,	Ruehrwein of Hamilton,
Shuler of Montgomery,	Rusler of Allen

Prisons and Pr son Reform.

MR. HARRIS of Ashtabula, Chairman.

Tracy of Tuscarawas,	Rogers of Hamilton,
Ward of Erie,	McBride of Richland,
Webb of Cuyahoga,	McKee of Coshocton.

Privileges.

MR. KREIS of Hamilton, Chairman.

Taylor of Jefferson,	Aker of Preble,
Beckham of Lucas,	Smith of Cuyahoga,
Barber of Guernsey,	Bayhan of Pike.

Public Buildings and Lands.

MR. KELLY of Ottawa, Chairman.

Dodge of Cuyahoga,	McLaughlin of Harrison,
Lewis of Delaware,	Keefer of Sandusky,
Dye of Hamilton,	Winn of Defiance.

Public Printing

MR. CANNON of Hamilton, Chairman.

Miller of Cuyahoga,	Hart of Lake,
Bell of Muskingum,	Hoffman of Putnam,
Smith of Cuyahoga,	Harshbarger of Shelby.

Public Ways.

MR. MCCONNELL of Lawrence. Chairman.

Dodge of Cuyahoga,	Walton of Wyandot,
Rogers of Hamilton,	Metcalf of Ross,
Hutcheson of Columbiana,	McKee of Coshocton.

Public Works.

MR. HALE of Summit, Chairman.

Griffin of Lucas,	Merion of Franklin,
Breck of Cuyahoga,	Shuler of Montgomery,
Huffman of Van Wert,	ClenDening of Mercer,
Southard of Logan,	Landis of Butler.

Railroads and Telegraphs.

MR. LOCKE of Madison, Chairman.

Sleeper of Athens,	Montgomery of Mahoning,
Heinlein of Belmont,	Lewis of Hamilton,
Harlan of Clinton,	Smith of Cuyahoga,
Heoffer of Darke,	Fisher of Brown.

Revision.

MR. SOUTHARD of Union, Chairman.

Sherer of Montgomery,	James of Wood,
Glenn of Highland,	Vanpelt of Jackson,
Bevis of Hamilton,	Weiser of Wayne.

Rules.

MR. SPEAKER, Chairman.

Griffin of Lucas,	Winn of Defiance,
Haskell of Lorain,	Harshbarger of Shelby.

Soldiers' and Sailors' Home.

MR. GRIFFIN of Lucas, Chairman.

Rutherford of Meigs,	Hutcheson of Columbiana.
Tracy of Tuscarawas,	Cannon of Hamilton,
Kelly of Ottawa,	Meyers of Henry.

Soldiers' and Sailors' Orphans' Home.

MR. HUNTER of Champaign, Chairman.

Harlan of Clinton,	Stewart of Hamilton,
Rice of Hardin,	Rogers of Morrow,
Elder of Clark,	Weiser of Wayne.

Taxation.

MR. GRIFFIN of Lucas, Chairman.

Dodge of Cuyahoga,	Rice of Hardin,
Locke of Madison,	Hard of Scioto,
Lewis of Hamilton,	Farrell of Fairfield,
Harris of Ashtabula,	Weiser of Wayne.

Temperance.

MR. GANYARD of Medina, Chairman.

Breck of Cuyahoga,	Bevis of Hamilton,
Heoffer of Darke,	Kelly of Perry,
Aker of Preble,	Olmstead of Holmes.

Turnpikes.

MR. HELLER of Lucas, Chairman.

Glenn of Highland,	Deaton of Miami,
Gray of Fayette,	Stewart of Hamilton,
McLaughlin of Harrison,	Moore of Monroe.

Universities and Colleges.

MR. BOSLER of Montgomery, Chairman.

Wood of Washington,	Lane of Franklin,
Locke of Madison,	Ward of Erie,
Rogers of Hamilton,	Harshbarger of Shelby.

Working Home for the Blind.

MR. ROGERS of Morrow, Chairman.

Barber of Guernsey,	Hill of Hamilton,
McLaughlin of Harrison,	McKee of Coshocton,
Gray of Fayette,	Brubaker of Ashland.

OFFICERS OF THE HOUSE—71ST GENERAL ASSEMBLY.

Names.	Positions.	Post-office.
ALEXANDER BOXWELL	*Speaker*	Red Lion.
LEONIDAS H. SOUTHARD	*Speaker pro tem*	York.
JOHN R. MALLOY	*Clerk*	Columbus.
GEORGE W. THOMAS	*Journal Clerk*	Cincinnati.
J. C. SCOTT	*Message Clerk*	Mt. Vernon.
CALVIN W. REYNOLDS	*Engrossing Clerk*	Ironton.
CLYDE D. WILLIAMS	*Enrolling Clerk*	Paulding.
MISS EMMA S. WHITNEY	*Recording Clerk*	Cleveland.
BEN. S. JOHNSTON	*Assistant Clerk*	Bellefontaine.
ANDREW JACKSON	*Sergeant-at-Arms*	Cedarville.
WILLIAM R. DUTTON	*1st Ass't Sergeant-at-Arms*	Malta.
GEO. P. SANDFORD	*2d* " " "	Apple Grove.
FRED BLANKNER	*3d* " " "	Columbus.

MEMBERS OF THE HOUSE—71ST GENERAL ASSEMBLY.

County.	Name.	Politics	Post-office.	Occupation.
Adams	(See Pike)	.....	.....	.....
Allen	William Rusler	D	Hume	Farmer.
Ashland	George W. Brubaker	D	Mohican	Farmer.
Ashtabula	William S. Harris	R	Saybrook	Farmer.
Athens	David L. Sleeper	R	Athens	Attorney and editor.
Auglaize	William G. Brorien	D	Buckland	Merch't and manu'r.
Belmont	Joseph C. Heinlein	R	Bridgeport	Attorney-at-law.
Brown	Robert P. Fisher	D	Decatur	Farmer.
Butler	Samuel C. Landis	D	Hamilton	Teacher.
Carroll	(See Harrison)	.....	.....	.....
Champaign	Thomas E. Hunter	R	Mingo	Farmer.
Clark	George Elder	R	Clifton, Greene Co.	Farmer.
Clermont	Harry W. Paxton	D	Loveland	Attorney.
Clinton	Elias D. Harlan	R	Oakland	Farmer.
Columbiana	Joseph I. Brittain	R	East Palestine	Merchant.
	William C. Hutcheson	R	Salem	Contractor.
Coshocton	John L. McKee	D	West Carlisle	Farmer.
Crawford	Benjamin F. Taylor	D	Spore	Farmer and teacher.
Cuyahoga	Joseph H. Breck	R	Newburgh	Farmer.
	William H. Clifford	R	Cleveland	Clerk.

Cuyahoga ...	Martin Dodge	R	E. End, Cleveland	Real estate.
	Edward W. Doty	R	Cleveland	Newspaper man.
	Oliver D. Miller	R	Cleveland	Real estate & man'r.
	J. Dwight Palmer	R	Cleveland	Pension agent.
	H. C. Smith	R	Cleveland	Editor.
	John W. S. Webb	R	Cleveland	Real estate dealer, broker and insurance.
Darke	Charles W. Heoffer	R	Greenville	Minister.
Defiance	John W. Winn	D	Defiance	Attorney.
Delaware	Samuel Lewis	R	Radnor	Farmer.
Erie	Uri L. Ward	R	Kelly's Island	Fruit grower.
Fairfield	*James M. Farrell	D	Lancaster	Attorney.
Fayette	Charles W. Gray	R	Jeffersonville	Merchant.
Franklin ...	William Felton	R	Columbus	Contractor.
	Eugene Lane	R	Columbus	Attorney-at-law.
	Charles Merion, Jr.	R	Columbus	Farmer.
Fulton	Lafayette G. Ely	R	Fayette	Farmer.
Gallia	Rufus D. Jacobs	R	Rio Grande	Physician and surgeon.
Geauga	(See Lake)			
Greene	Joseph B. Cummings	R	Xenia	Farmer.
Guernsey	Nathan H. Barber	R	Cambridge	Attorney.
Hamilton	Clifford D. Bevis	R	Preston	Merchant.
	Richard L. Cannon	R	Walnut Hills, Cin	Law claims and collections.
	Amos Dye	R	Temple Bar, Cin	Attorney.
	Samuel B. Hill	R	Cincinnati	Clerk.
	George Kreis	R	Cincinnati	Insurance agent.

*Resigned.

MEMBERS OF THE HOUSE—71ST GENERAL ASSEMBLY—Continued.

County.	Name.	Politics	Post-office.	Occupation.
Hamilton	Eugene L. Lewis	R	Cincinnati	Wholesale lumber.
	William C. Rogers	R	Madisonville	Scale manufac-
	William Ruehrwein	R	Cincinnati	Foreman. [turer.
	Alexander E. Stewart	R	Cincinnati	Provision merchant.
	Edward H. Strong	R	Station A, Cin.	Coal merchant.
Hancock	Charles Bright	R	Findlay	Farmer.
Hardin	John S. Rice	R	Kenton	Farmer.
Harrison	Samuel K. McLaughlin	R	Hurford	Farmer.
Henry	Jacob F. Meyers	D	Hamler	Farmer.
Highland	William H. Glenn	R	Hillsboro	Retired merchant.
Hocking	John P. Rochester	R	Logan	Merchant.
Holmes	Edward E. Olmstead	D	Winesburg	Attorney.
Huron	David H. Reed	R	North Fairfield	Physician.
Jackson	Martin T. Vanpelt	R	Wellston	Lawyer. [col. agt.
Jefferson	Samuel B. Taylor	R	Toronto	Real estate and law
Knox	William Welsh	R	Mt. Vernon	Insurance.
Lake	Turhand G. Hart	R	Mentor	Attorney.
Lawrence	John W. McConnell	R	Suiter	Farmer.
Licking	Wm. Beaumont	D	Alexandria	Farmer.
Logan	Spain J. Southard	R	Bellefontaine	Attorney.

Lorain	Joseph T. Haskell	R	Wellington	Attorney.
Lucas	Carl H. Beckham	R	Toledo	Attorney-at-law.
	Charles P. Griffin	R	Toledo	Farmer and real es-
	Oliver P. Heller	R	Whitehouse	Farmer. [tate deal'r
Madison	John F. Locke	R	London	Lawyer.
Mahoning	Randall Montgomery	R	Youngstown	Merchant.
Marion	(See Morrow)			
Medina	Calvin S. Ganyard	R	Granger	Farmer.
Meigs	Evans W. Rutherford	R	Mt. Blanco	Farmer.
Mercer	Byron M. ClenDening	D	Celina	Attorney. [geon.
Miami	Van Shears Deaton	R	Alcony	Physician and sur-
Monroe	John Moore	D	Woodsfield	Farmer.
Montgome'y	Charles H. Bosler	R	Dayton	Lawyer.
	William W. Sherer	R	Union	Farmer.
	William Shuler	R	Miamisburg	Physician.
Morgan	Charles H. Dunn	R	Todds	Farmer.
Morrow	Hugh G. Rogers	R	Chesterville	Farmer. [of Trade.
Muskingum	William S. Bell	R	Zanesville	Secy. Zanesv'e Bo'rd
Noble	David J. Green	R	Renrock	Farm. & stock d'ler.
Ottawa	William Kelly	R	Port Clinton	Farm.& stock br'der
Paulding	Francis B. DeWitt	R	Paulding	Attorney.
Perry	Frank A. Kelly	R	New Lexington	Attorney and manu-
Pickaway	Daniel Haas	D	Circleville	Farmer. [facturer.
Pike	Almand Bayhan	D	Buchanan	Physician.
Portage	Ransom B. Richards	R	Brimfield	Farmer.
Preble	William W. Aker	R	New Paris	Lawyer.
Putnam	William F. Hoffman	D	Glandorf	Teacher.

MEMBERS OF THE HOUSE—71ST GENERAL ASSEMBLY—Concluded.

County.	Name.	Pol'cs.	Post-office.	Occupation.
Richland	Curtis E. McBride	D	Mansfield	Attorney-at-law.
Ross	William S. Metcalf	R	Bourneville	Farmer.
Sandusky	George F. Keefer	R	Old Fort	Farmer and teacher.
Scioto	Charles E. Hard	R	Portsmouth	Attorney-at-law.
Seneca	‡Henry K. Spooner	R	Tiffin	Physician.
Seneca	†Charles Flumerfelt	D	Old Fort	Farmer.
Shelby	Harris N. Harshbarger	D	Sidney	Real estate and loans.
Stark	William H. Rowlen	R	Canton	Attorney.
Stark	John Thomas	R	Navarre	Miner.
Summit	Charles O. Hale	R	Ira	Farmer.
Trumbull	Allen Jones	R	Kinsman	Physician and surgeon.
Tuscarawas	Wesley M. Tracy	R	Mineral Point	Merchant.
Union	Leonidas H. Southard	R	York	Farmer.
Van Wert	Frank A. Huffman	R	Ohio City	Merchant.
Vinton	(See Hocking)			
Warren	Alexander Boxwell	R	Red Lion	Attorney.
Washington	Gustavus A. Wood	R	Rainbow	Farmer.
Wayne	Charles A. Weiser	D	Burton City	Farmer.
Williams	Theodore S. Carvin	R	Edon	Druggist.
Wood	Benjamin F. James	R	Bowling Green	Attorney.
Wyandot	A. E. Walton	R	Upper Sandusky	Attorney.

‡Vice Flumerfelt, unseated. †Unseated on contest.

PAGES OF THE HOUSE.

Lawrence Cavanagh,
A. L. Conklin,
Charles Doyle,
Jesse Francis,
David Hughes,
Joseph McDowell,
Samuel Maxon,
Edward Moreman,
Albert Myers,
Fred K. Short,
B. C. Stimmel,
E. Thomas.

PORTERS OF THE HOUSE.

John Baker,
J. J. Barrett,
J. F. Bulger,
R. M. Cottrill,
J. M. Curtiss,
W. W. Deagle,
R. J. Hammond,
M. Karshner,
James B. Lewis,
Alexander Noble,
John Proctor,
George Riley,
S. W. Seacrist,
C. Shindler,
J. Snellinberger,
J. G. Steinkamp,
H. M. Stormant,
M. Vore.

OFFICIAL DIRECTORY.

MEMBERS OF THE SENATE

OF THE

71ST GENERAL ASSEMBLY.

ANDREW L. HARRIS,

Lieutenant-Governor and President of the Senate,

Was born in Butler county, Ohio, November 17, 1835; was reared on a farm in Preble county, was educated in the common schools and at Miami University at Oxford, Ohio, graduating therefrom in 1860; enlisted in Company "C," 20th O. V. I., three months' service, April 17, 1861; was promoted to Second Lieutenant and Captain of same company, recruited a company for the 75th O. V. I. three years' service, was commissioned its Captain November 9th, 1861, was promoted to Major and Colonel of that regiment and Brevet Brigadier-General of Volunteers; was admitted to the bar in 1865, and practiced law in Eaton until 1875; was elected Probate Judge of Preble county in 1875, re-elected in 1878; was a member of the State Senate from Montgomery and Preble counties in 1866–67, and the House of Representatives in 1886–87–88 and 89; was elected Lieutenant-Governor in 1891 over the Hon. William Vance Marquis; has been engaged in farming since 1882. On November 7th, 1893, he was re-elected Lieutenant-Governor.

FIRST DISTRICT.

Composed of Hamilton County.

FRANK KIRCHNER

Was born in Erie county, State of New York, in 1832. He attended a country school until eleven years of age, when he was forced to go to work to support a widowed mother and six small children. When twenty years old he came to Cincinnati and has ever since made that city his home. For two years he was Assistant Street Commissioner under Mayor John Torrence. He was elected a member of the House of Representatives in 1879, and was sent to the Senate in 1887. He began street contracting in 1873, which he followed until his retirement from business in 1893.

FIRST DISTRICT.

Composed of Hamilton County.

HERMAN H. ROTHERT,

Of Cincinnati, Ohio, was born in Germany on the 10th of April, 1835; came to America with his parents in 1837 and located in Cincinnati, and has been a resident there ever since. He was educated in the public schools of that city. At the age of 15 he went into the hardware business with his father and has remained in the same to date; was a member of the Board of Aldermen from 1874 to 1878, and was elected, for three successive terms, a member of the Board of Equalization, from 1878 to 1883, occupying the position of its president for three years; was an organizer of the State League of Building and Loan Companies, and has to the present date represented the leading associations in the same.

receiving a common school education. Served three years in the army. At the close of the war returned to the farm, which occupation he followed until he broke down in health. Now resides in Greenfield. Was nominated and elected a member of the 69th General Assembly, as a Republican, and in 1891 was re-elected to the 70th General Assembly, over O. H. Hughes, Democrat. Was nominated and elected to the 71st General Assembly from the Fifth-Sixth Senatorial District.

SEVENTH DISTRICT.

Composed of the Counties of Adams, Pike, Scioto and Jackson.

DUDLEY B. PHILLIPS, of Manchester,

Was born at Clayton, in Adams county, Ohio, August 1st, 1860; was educated in the common schools and high school of Manchester, where he now resides; studied law and was admitted to practice in 1881; was a member of the O. N. G. from 1883 to 1890; was three times elected mayor of Manchester; was elected to the Senate of the 70th General Assembly in 1891 over W. T. Washam, Democrat, by a plurality of 1,751, and re-elected in 1893 over Dr. L. B. Harrison by a plurality of 2,093.

EIGHTH DISTRICT.

Composed of the Counties of Lawrence, Gallia, Meigs and Vinton.

JOHN C. HUTSINPILLER, Gallipolis, O.,

Was born in Gallia county, Ohio, December 11, 1840. He lived on the farm until he enlisted in the army August 19, 1862, in Co. G, 117th O. V. I. This regiment was reorganized August 12th, 1863, and was known thereafter as the 1st Ohio heavy artillery. He was mus-

tered out of service July 25, 1865. After taking a business course in Nelson's Commercial College he engaged in the manufacture of furniture in Cincinnati, O. In 1868 he removed his business to Gallipolis, Ohio, organizing the company of which he is still a member and known as the Fuller & Hutsinpiller Company. He was appointed trustee of the Athens Asylum by Governor Foraker, reappointed by Governor Campbell and continued by Governor McKinley. Was nominated by acclamation by the Republicans of the 8th Senatorial district and elected to the 71st General Assembly by a majority of 11,720.

NINTH—FOURTEENTH DISTRICTS.

Composed of the Counties of Athens, Hocking, Fairfield, Morgan, Washington, Monroe, part of, Rinard's Mills precinct in Washington township, and part of Bethel and Benton townships, Noble, part of Brookfield, Jackson, Noble, Sharon and Olive townships, and part of Elk, Jefferson and Center townships, Forest Grove and Caldwell precincts, and part of Dexter precinct.

JOHN Q. ABBOTT, of McConnellsville,

Was born in the village of Stockport, Morgan county, O., February 11, 1859; educated in the excellent schools of his native village; studied law under the tutelage of the Hon. T. J. McDermott of the Zanesville bar, and was admitted to practice June, 1890. He was twice elected township clerk of Windsor township. Twice elected mayor of Stockport, and twice elected to the office of Clerk of Courts. Was elected over Hon. Virgil C. Lowry, Democrat, by over twelve hundred majority, in November, 1891, and was re-elected in 1893, by a largely increased vote, receiving a majority of 2,527.

TENTH DISTRICT.

Composed of the Counties of Franklin and Pickaway.

MOSES BRANSON EARNHART,

Was born in Miami county, Ohio, August 7th, 1849. He was graduated from Troy high school, Miami and Michigan Universities. He held the office of city solicitor and mayor of Troy, Ohio. Was prosecuting attorney of Miami county. In 1883 Mr. Earnhart was the nominee of the Republican party for attorney-general. He is married and lives in Columbus where he has a general law practice. A member of the Masonic, Odd Fellows and Knights of Pythias lodges. On the 7th of November, 1893, he was elected Senator from the tenth district as a Republican.

ELEVENTH DISTRICT.

Composed of the Counties of Clark, Champaign and Madison.

DR. SAMUEL M. MOSGROVE,

Was born in Urbana, in August, 1851. He attended the public schools in the city and afterwards the Swedenborgian College. He commenced the study of medicine with his grandfather, Dr. Adam Mosgrove, and uncle, Dr. James M. Mosgrove. He attended Miami Medical College at Cincinnati, where he took a course of study, being graduated from that institution in 1872. The following year he spent at Bellevue Hospital, New York City, graduating in February, 1873. He then returned to the scenes of his boyhood days and commenced the practice of medicine. By strict attention to his professional duties and his natural ability as a practitioner, he soon built up a large and lucrative practice.

Dr. Mosgrove was elected Coroner by the Republicans of Champaign county for three consecutive terms. He served eight years on the Pension Board, being appointed during Garfield's administration and remaining on the board until the close of Cleveland's administration, being the hold-over Republican during the latter's term of office. He served two years in the City Council of Urbana, representing the old First Ward from '87 to '89. The first year he was elected Vice-president of that body and the last year he was made President.

Some years ago the Senator was surgeon of the 7th Regiment, of which the Urbana Company was Company B. He is a member of the Masonic, Odd Fellows and Elk Lodges.

TWELFTH DISTRICT.

Composed of the Counties of Miami, Darke and Shelby.

McPHERSON BROWN,

Born October 21, 1860, in Pittsburg, Pa. Moved to Piqua, Ohio, November 21, 1889. Has worked all his life in brickyards and rolling mills. He attended night schools after his daily labor was done.

Was elected Senator over Hon. Thos. A. Burns, Democrat, in a strongly Democratic district, by 546 votes.

THIRTEENTH DISTRICT.

Composed of the Counties of Logan, Union, Hardin and Marion.

WALTER S. PLUM,

Son of Jonathan Plum, was born near the village of Lewistown, Logan county, Ohio, November 26, 1852, and spent his life up to the age of majority, on the farm,

enjoying only such educational privileges as country schools then afforded.

In September, 1874, young Plum entered Wittenberg College at Springfield, Ohio, where he remained one year. In 1875 he entered college at Adrian, Michigan, where he graduated in June, 1878, spending, in the meantime, his vacations at farm labor, and in the fall of the same year entered the office of Judge William Lawrence, at Bellefontaine, Ohio, as a law student. Two years later he was admitted to the bar and began the practice of law in his native county. In 1882, he was elected City Attorney of Bellefontaine, and served two years, after which time he was elected Prosecuting Attorney of Logan county, which office he held six years —from 1885 to 1891, and in 1893 was elected to the Senate of the 71st General Assembly as a Republican from the Thirteenth District.

FIFTEENTH–SIXTEENTH DISTRICTS.

Composed of the Counties of Muskingum, Perry, Delaware and Licking.

GEORGE IDEN, of Newark,

Was born in Hanover township, Licking county, Ohio, July 9, 1845; was educated in the common schools of the county, and took a commercial course at the Vermillion Institute in Hayesville, Ashland county, Ohio. From 1866 to 1881 taught school in Licking county, moved to Newark and occupied the position of teacher of penmanship and book-keeping in the Newark schools for the period of three years. Has held some political positions such as Assessor and Councilman. Was elected to the State Senate, 1891, defeating Daniel H. Gaumer, (Dem.), who was elected in 1889 by 1,633 majority, by 6

votes; is the first Republican elected to the State Legislature from the county or district during the life of the party. Served in Co. "F," 95th O. V. I., from September, 1864, to August, 1865. Was re-elected to the State Senate November, 1893, by the magnificent plurality of 2,216 votes, running far in advance of his ticket and carrying the great Democratic stronghold of Licking county by a plurality of 30 votes, a compliment never before vouchsafed to any Republican candidate.

SEVENTEENTH—TWENTY-EIGHTH DISTRICTS.

Composed of the Counties of Knox, Morrow, Wayne and Holmes.

NEWTON STILWELL, of Millersburg,

Was born in Holmes county in 1857. Obtained his education in the Millersburg Union schools and at Smithville, Ohio, then spent a year in schools of Switzerland, Europe. Taught and superintended schools. Was member Board School Examiners of Holmes county six years. Read law with Hon. Henry B. Curtis, at Mt. Vernon, O., and was admitted to the bar; in 1884 was admitted to practice in United States Circuit and District Courts for northern district of Ohio, and has continuously practiced since. Was never a candidate for office till elected Senator, as a Democrat, November 7, 1893.

EIGHTEENTH—NINETEENTH DISTRICTS.

Composed of the Counties of Coshocton, Tuscarawas, Guernsey, Monroe, all of, except part of Benton and Bethel townships, and Rinard's Mills precinct; Noble, part of Beaver, Buffalo, Enoch, Marion, Seneca, Stock and Wayne townships and part of Center, Elk and Jefferson townships, East Union, and part of Dexter precinct.

WALTER S. HARDESTY

Was born at Malaga, Monroe county, Ohio, on the 10th day of November, 1843; was educated in the common schools of the county; was a member of Co. C, 116th Regt. Ohio Volunteers, having joined the company at the age of 18. Has been engaged in the mercantile trade as a salesman and otherwise for the past thirty years, during which time he was twice elected Justice of the Peace, served nine years as Postmaster of his native village, has held a notary's commission for a number of years. Was elected to the 71st General Assembly from the 18th and 19th Senatorial Districts, over Jno. A. Buchanan, Democrat, by a majority of 39, overcoming a Democratic majority of more than two thousand, and is the first Republican ever sent to the Ohio Senate from Monroe county.

TWENTIETH—TWENTY-SECOND DISTRICTS.

Composed of the Counties of Belmont, Harrison Jefferson and Columbiana.

CHARLES MATHER HOGG

Was born in Warren, Jefferson county, Ohio, January 24, 1840. Was educated at Washington College, Washington, Pa., taking an elective course. He has lived at Cadiz, Harrison county, since 1861. During this period he has been engaged in banking, farming and the general business of that county. He was president of the Farmers' and Mechanics' National Bank for a number of years. Was elected to the Senate of the 71st General Assembly of Ohio from the 20th and 22d Districts as a Republican by nearly 7,000 majority.

TWENTIETH—TWENTY-SECOND DISTRICTS.

Composed of the Counties of Belmont, Harrison, Jefferson and Columbiana.

JOHN A. B. WOOD, of Steubenville, Ohio,

Was born near Smithfield, Jefferson county, Ohio, April 9th, 1859, and grew up on the farm. Was educated in the country and village schools, at Granville Academy and Denison University, Granville, O., graduating from the latter in 1884. Taught school both before and after graduating, serving as principal and later as superintendent of public school. Read law while teaching, and at Cincinnati Law School, and since his admission to the bar has practiced in Steubenville, Ohio. Was elected as a Republican to the Senate of the 71st General Assembly over Samuel Foreman, Democrat, and J. H. Hawkins, Prohibitionist, by a plurality of 7,671.

TWENTY-FIRST DISTRICT.

Composed of the Counties of Carroll and Stark.

HARVEY J. ECKLEY, of Carrollton,

Was born at Carrollton, Ohio, October 29th, 1845. Attended college at Cannonsburg, Penn., being graduated from Washington and Jefferson College with the class of 1868. Afterwards read law and was admitted to the bar by the Supreme Court of Ohio, in January, 1872. In 1876 began the practice of law at Carrollton and has continued it ever since. Was elected Prosecuting Attorney of Carroll county in 1878, and again in 1880. Was elected to the Senate of the 70th General Assembly of Ohio from the 21st District, over Anthony Howells, Democrat, by 671 votes. Was re-elected to the 71st General Assembly.

TWENTY-THIRD DISTRICT.
Composed of the Counties of Trumbull and Mahoning.

LEMUEL C. OHL, of Mineral Ridge,

Was born in Austin township, Mahoning county, June 7th, 1857. Obtained his education at Mineral Ridge high school and Mt. Union College; farmer by occupation; was a member of both the 68th and 69th General Assemblies; elected to the Senate of the 70th General Assembly in 1891, from the 23d District, over Capt. Joseph M. Jackson, Democrat. Re-elected to the 71st General Assembly.

TWENTY-FOURTH—TWENTY-SIXTH DISTRICTS.
Composed of the Counties of Ashtabula, Lake, Geauga, Portage and Summit.

FRIEND WHITTLESEY, of Atwater,

Was born April 10th, 1830, upon a farm in Atwater, Portage county, in which place his ancestors from New England settled in 1806. He attended the academy of his native village for a period of three years, then was engaged for six years as a teacher. Since this time he has lived upon a farm. Was married in 1856 and has three children. He was a member of the House of Representatives from Portage county in the 67th and 68th General Assemblies, and was elected Senator as a Republican, from the 24th and 26th Districts to the 71st General Assembly.

TWENTY-FIFTH DISTRICT.
Composed of Cuyahoga County.

ELROY McKENDREE AVERY, of Cleveland,

Was born at Erie, Monroe county, Michigan, July 14, 1844. He enlisted in the first company that went from

Monroe to the front, and on the memorable day of the first Bull Run battle was with Company A, Fourth Michigan Infantry. Subsequently, he became a member of Company E, Eleventh Michigan Cavalry. At the first battle of Saltville, Va., the colonel of the regiment commanded a brigade, and Private Avery served on the staff of the acting brigadier. That day the regiment lost a third of its men, and Private Avery became Sergeant-major Avery. The *modus operandi* of this transformation was laconic. On Avery's return from a mission across a field swept with bullets, shot and shell, Colonel Brown greeted his messenger with the words: "Well done, Sergeant-major," to which the newly-promoted answered: "Thank you, Colonel." During this military service he acted as correspondent of the Detroit *Daily Tribune*. In the fall of 1867, he matriculated at the University of Michigan, whence he was graduated in 1871. During his collegiate course he served as local and university correspondent of the Detroit *Tribune* (daily), and as city editor of the Ann Arbor *Courier* (weekly). In his senior year he accepted a position on the editorial staff of the Detroit *Tribune*, doing, for the remainder of that college year, full work as journalist and student. At the age of sixteen and between enlistments in the army, he taught a country school, "boarding around," and enjoying all the experiences that the term implies. After the war he taught a village school in his native county. When the beginning of his junior year at the University found him out of funds, he accepted the principalship of the Battle Creek (Mich.) high school. Succeeding in borrowing enough money to enable him to complete his college course with close economy, he soon resigned this position, returned

to the university and regained his standing in his class. At the end of his junior year he married Miss Catherine Hitchcock Tilden. In August, 1871, he became superintendent of the public schools of the village of East Cleveland, Ohio, constituting what is now known as the "East End" of Cleveland. After the annexation of the village to the city, Mr. Avery became principal of the East High School, and, subsequently, of the Normal School, then the apex of the school system of the city.

In 1876, "Avery's Elements of Physics" was published by the Burrows Brothers, of Cleveland, and immediately adopted for use in the high schools of that city. In 1878, "Avery's Elements of Natural Philosophy" was published by Sheldon & Co., of New York City. Since that time, the continued call for "copy" has brought forth a volume nearly every year. In 1880, the author received the academic degree of Doctor of Philosophy.

He is a member of the Grand Army of the Republic; a Knight Templar; a thirty-second degree Mason; president of the Western Reserve Society of the Sons of the American Revolution; general secretary and treasurer of the Ohio Protective Tariff League; a member (for many years) of the Republican County Central Committee; founder and president of the Logan Club, the oldest Republican club in the city; a life member of the American Economic Association, of the Ohio Archæological and Historical Society, and of the Western Reserve Historical Society; a member of the American Historical Association; a fellow of the American Association for the Advancement of Science; has been a member of the Cleveland City Council, and was the second president of the Ohio Conference of Charities and Correction.

In the fall of 1893 he was urged to become a candidate for the Ohio Senate, but refused to do so. In spite of his refusal to become a candidate and of his public declaration that he was not even "in the hands of his friends," a dozen of the most prominent citizens of Cleveland quietly paid his assessment and entered his name for the nomination. The Republican nominations in Cuyahoga county were made under the "Popular Vote Plan." More than fifteen thousand votes were cast at the primaries, of which Dr. Avery received about two-thirds. At the election (November 7, 1893) he was elected over his Democratic competitor by a plurality of nearly nine thousand.

TWENTY-FIFTH DISTRICT.
Composed of Cuyahoga County.

HENRY M. CHAPMAN

Was born on a farm in Euclid township, Cuyahoga county; worked on the farm till he was twenty-one, when the family was broken up by the death of his father. He then attended school at Oberlin for four years, and paid his way by work and teaching school. Was married in 1861, and went on to a farm in Euclid and lived there, making fruit-raising a business. Moved to East Cleveland in 1882, where he now resides. Was a member of the 60th and 61st General Assemblies. In 1893 was elected to the Senate of the 71st General Assembly, running against a very popular Democrat, but was elected by nearly 9,000 majority.

TWENTY-FIFTH DISTRICT.
Composed of Cuyahoga County.

WILLIAM T. CLARK.

Mr. CLARK came to Cleveland in 1857 and became an

apprentice in the firm of Lord, Sanders & Bowler, machinists. January 15, 1862, he entered the army and served until February 20, 1865, in Company K, of the First Light Artillery, under the command of Capt. L. DeBeck. Since 1857 he has lived continuously in Cleveland, except the time of service in the army. Mr. Clark studied law with W. S. Kerruish of Cleveland, and graduated at the Old Union Law College and began the practice of law in 1872. He was elected to the 68th General Assembly and again to the 70th General Assembly in 1891, and was chairman of the Judiciary committee of the House. He was elected Senator to the 71st General Assembly, receiving a majority of 9,000 over the Democratic candidate. Mr. Clark has been for two terms Commander-in-Chief of the Union Veterans' Union, an organization of old soldiers, whose membership is conditioned upon at least six months' service at the front.

He is now Department Commander of the same organization for the states of Ohio, Kentucky and Indiana. Mr. Clark is practicing law in the city of Cleveland, being senior member of the firm of Clark & Thompson.

TWENTY-SEVENTH—TWENTY-NINTH DISTRICTS.

Composed of the Counties of Medina, Lorain, Ashland and Richland.

GEORGE H. ELY

Was born in Elyria, Ohio, November 15, 1844. He was a member of the class of 1865 at Western Reserve College during Freshman and Sophomore years. In the fall of 1863 he entered the Junior class at Yale College and was graduated by this college in class of 1865. After completing his college course he engaged actively in business. For nearly twenty-five years he was en-

gaged as a member of the firm of Topliff & Ely, in the manufacture of carriage hardware, doing a large business in every state in the Union. He organized the Elyria Stone Co., and for three years, while connected with this company, was largely interested in one of the large quarries for which Northern Ohio is famous. As a recreation from business, he became interested in breeding horses, with such success that his stock soon secured a national reputation. Owing to his interest as a breeder, he became connected with the Lorain County Agricultural Society and is at present its president.

He was nominated for Senator as a Republican, to represent the 27th and 29th districts in the 71st General Assembly without opposition, and elected by more than double the majority ever given in his district. This is the only political office he ever held.

THIRTIETH DISTRICT.

Composed of the Counties of Huron, Erie, Sandusky and Ottawa.

JAY FORD LANING

Was born at New London, Ohio, May 15, 1853, where he resided until January, 1882, when he moved to Norwalk, his present home. His education was obtained chiefly in the common schools. From the age of 15 to 21 his time was spent at manual labor, in study and in teaching school. During much of the time his spare moments were devoted to the study of law. He was admitted to the bar in 1875. On moving to Norwalk he gradually abandoned his law practice, and built up a publishing business, which has become one of the largest in the country. Notwithstanding that the district he represents has a nominal Democratic majority of about 1,500, he was elected on the Republican ticket by a plurality of 1,744, running ahead of his ticket in many places.

THIRTY-FIRST DISTRICT.

Composed of the Counties of Seneca, Crawford and Wyandot.

WILLIAM C. GEAR,

Of Upper Sandusky, was born in Logan county, Ohio, December 28, 1846. When about one year old his parents removed to Wyandot county, where he has resided almost continuously ever since. He attended the common schools until June 3d, 1862, when he enlisted in Co. G, 87th O. V. I. He was taken prisoner at Harper's Ferry, West Va., September 15th, 1862, and was paroled and sent home. He attended school until December 24, 1863, when he re-enlisted in Co. A, 49th O. V. V. I. He was transferred to the 68th O. V. I. and was in the Strawberry Plains and Knoxville campaign in the winter of 1863 and 1864. He was ordered to his command, the 49th O. V. V. I., while at camp at Cleveland, Tennessee, and was with Sherman to Atlanta and with Thomas in the Nashville campaign. He served throughout the war and was mustered out and discharged November 30th, 1865. He attended Wittenberg college a short time and went to teaching school and taught, in all, sixteen years. He was married in 1874. He was appointed school examiner of Wyandot county in 1876, and served nine years as such. In 1883 he was elected surveyor of Wyandot county, and in 1886 re-elected; in 1889 he was elected to the lower branch of the General Assembly and was renominated by his party in 1891 at the April convention. At the Senatorial convention in June of the same year, held at Tiffin, he was nominated for Senator. He accepted the nomination and his successor as Representative was nominated in the person of Hon. J. J. Smith. Mr. Gear has always been an unfaltering Democrat. He was elected, at the last state

convention, one of the alternates at large to the National Convention held at Chicago. Mr. Gear was re-elected to the Senate of the 71st General Assembly.

THIRTY-SECOND DISTRICT.

Composed of the Counties of Allen, Auglaize, Defiance, Mercer, Paulding, Van Wert and Williams.

JAMES D. JOHNSON,

Of Celina, was born November 26th, 1858. His parents then lived upon a farm near Salem, Adams county, Indiana, but in the spring of 1860 moved to a farm situate in Black Creek township, Mercer county, Ohio, where he grew to man's estate. He was educated in the common schools; two years in the Willshire High School, and attended the Ohio Wesleyan University at Delaware, Ohio, in the year 1878; read law under the supervision of Hon. T. J. Godfrey, Celina, Ohio, and took one year in the Cincinnati Law School; was admitted to the bar June 3, 1884; was clerk of Black Creek township one year; was for six years Justice of the Peace in Celina; was deputy treasurer of Mercer county two years. He had experience in farming, and as a teacher, up to 1884. Since that time he has practiced law. On the 7th day of November, 1893, he was elected State Senator to the 71st General Assembly over Lewis, Republican, by a plurality of 2,979 votes. Political principles, Democratic.

THIRTY-SECOND DISTRICT.

Composed of the Counties of Allen, Auglaize, Defiance, Mercer, Paulding, Van Wert and Williams.

HENRY JOHN LAWLOR, of Lima, Ohio,

Was born January 24, 1859, at Cardington, Morrow county, O.; moved to Lima, Allen county, O., September

13, 1865; receiving a common school education at Lima, afterwards accepting a position as an apprentice in the Lima Machine Works, in boiler shop. On June 11, 1872, not being content after three years in these works, he accepted a position as brakeman on the C., C., C. & I. R. R. Acting in this capacity a short time, he afterwards accepted a position as section foreman on the road known as the "Clover Leaf," which position he held for one year. Returning to his former home he entered a business college for a short time, afterwards learning the tailor trade, opening a merchant tailor's store in 1881. Served six years as member of the City Council of Lima, presiding over that body for one term. Was elected November 7, 1893, to the 71st General Assembly as a Democrat.

THIRTY-THIRD DISTRICT.

Composed of the Counties of Fulton, Hancock, Henry, Lucas, Putnam and Wood.

THOMAS H. McCONICA, of Findlay,

Was born on a farm near Marengo, Morrow county, Ohio, September 21, 1855; was engaged in farming until he was of age; attended the Ohio Wesleyan University at Delaware, and completed a classical course, with the class of 1881. Graduated from the Cincinnati Law School in 1883, and lived there until 1887, when he removed to Findlay, Hancock county, where he still resides. He is a member of the Board of Education; was elected to the Senate of the 70th General Assembly over John W. Canary, Democrat; elected a member of the Senate of the 71st General Assembly over C. R. Brand, Democrat, and elected President pro tem. of the Senate on January 1, 1894.

THIRTY-THIRD DISTRICT.

Composed of the Counties of Fulton, Hancock, Henry, Lucas, Putnam and Wood.

JOHN C. RORICK, of Wauseon,

Was born near Elmira, New York, February 13, 1834, and located in Wauseon, Fulton county, Ohio, in 1872. At present he is engaged in the real estate and insurance business and one of the owners of the Bank of Morenci. His educational advantages were limited to the short winter terms at the district schools, and one term at the Medina Seminary of Michigan. He commenced teaching at the age of eighteen, and in 1855 founded the first commercial college at Milwaukee, chartered in the state of Wisconsin.

In 1881 Hon. O. B. Ramey resigned his position as member of the State Board of Equalization for the 33d District, and in compliance with the request of a majority of the members of the Legislature from that district, Mr. Rorick, was appointed by Governor Foster and filled the position to the satisfaction of all. He accepted the nomination for State Senator in 1883, and ran nearly 1,000 ahead of the ticket, but was defeated. Mr. Rorick has held many minor offices, but never sought or desired a nomination until 1891, when he was a candidate for nomination at the Toledo Senatorial convention, and with Hon. T. H. McConica, was nominated. They ran against Hon. John Ryan, of Lucas, who was elected in 1889, and Mr. John W. Canary, of Wood county. Mr. Rorick was elected by a plurality of 1,496 over Mr. Ryan, Democrat. In 1893 Mr. Rorick and Mr. McConica were renominated by acclamation, and ran against Hon. Milton E. McClure, of Putnam and Carl R. Brand, of

years entered Muskingum College, where he remained for one year, and afterwards attending Washington and Jefferson College, Washington, Pa., two years and one-half; studied law with Hon. Lorenzo Danford at St. Clairsville, and was admitted to the bar; practiced law until his election as Probate Judge of Guernsey county in the fall of 1887; was re-elected Probate Judge in 1890; resigned November 6, 1893, and November 7, 1893, was elected to the 71st General Assembly as a Republican, over D. C. Kennon, Democrat.

ALMOND BAYHAN.

ALMOND BAYHAN, Representative from Adams and Pike counties, was born in Lexington, Richland county, Ohio, October 13, 1838. He attended school in Richland and Highland counties most of the time, till, at the age of 18, he commenced the study of medicine, under his father, William R. Bayhan, who shortly afterwards died, and he completed his studies under William C. McBride, of Marshall, Ohio; went from there to the University of Pennsylvania, graduating in 1862. Located in the village of Buchanan, Pike county, Ohio, where he has had an extensive practice since. Owns a farm of six hundred acres, which he controls in farming and stock-raising. Has served three terms as township treasurer. Was elected a member of the 69th General Assembly, as a Democrat; again elected member of the 71st General Assembly over Samuel Patterson, Republican candidate, by a majority of 214 votes in Adams-Pike district.

WILLIAM BEAUMONT.

WILLIAM BEAUMONT, Representative from Licking county, was born June 6, 1831, on a farm in St. Albans township, Licking county, Ohio. He received a common education at a country school. Was raised a farmer, afterwards was in the mercantile business for fourteen years. Was superintendent of Licking County Infirm-

ary for nine years, and is at the present time a farmer. Served as township clerk and afterwards township treasurer of St. Albans township for several years. Was elected to the House of Representatives of the 70th General Assembly as a Democrat, and re-elected to the 71st General Assembly.

CARL H. BECKHAM.

CARL H. BECKHAM, Representative from Lucas county, was born in Henry county, Ohio, July 3, 1860. His great-grandparents were early pioneers in central Ohio, coming from Virginia. He was educated in the district school and the Napoleon union schools, which he left at the age of fourteen and spent several years in work on the farm and in teaching school, both in Henry and Lucas counties, attending the Ohio Wesleyan University for one year, in the meantime. Afterwards he studied law at Toledo, and was admitted to the bar in 1886, and has been ever since engaged in the practice of his profession in that city. Was elected to the 71st General Assembly as a Republican.

WILLIAM S. BELL.

WILLIAM S. BELL, Representative from Muskingum county, was born in the city of Zanesville, Muskingum county, on the 6th day of January, 1852. Has resided there all his life. Educated in the public schools of Zanesville. Entered upon active business career at the age of fifteen. For a number of years was in the wholesale and retail confectionery business with creditable success. Has served the Board of Trade of Zanesville as secretary for several years. He has been for several years a member of the City Council, part of the time being its president. Has served the city as its mayor. Was elected to the 71st General Assembly, receiving a majority of 698 over one of the most prominent Democratic politicians of Muskingum county.

CLIFFORD D. BEVIS.

CLIFFORD D. BEVIS, Representative from Hamilton county, was born in Colerain township, Hamilton county, Ohio, December 18, 1865. At the age of 6 years his parents removed to Crosby township, Hamilton county, where he grew to manhood, reared on a farm, and is still engaged in that occupation. He is also connected with a general hardware store at Harrison, Ohio. Was educated in the public schools, and attended college at Danville, Indiana, where he graduated in several departments. He has served three consecutive terms as clerk of his township, and was elected a member of the 71st General Assembly as a Republican.

CHARLES H. BOSLER.

CHARLES HARMAN BOSLER, Representative from Montgomery county, was born at Dayton, Ohio, November 8, 1866. Was educated in the common schools of Dayton, graduating from the Central High school in 1885. Studied law in the office of Gunckel & Rowe from then until 1886, when he entered Denison University, graduating in 1890 with the degree of Ph. B. Returned to the study of the law with Gunckel & Rowe, and was admitted to the practice in March, 1893. Has since then practiced law in Dayton. Was elected to the House of Representatives of the 71st General Assembly as a Republican.

ALEXANDER BOXWELL.

ALEXANDER BOXWELL, Representative from Warren county, was born in Frederick county, Virginia, and came to Ohio in 1857 with his parents, who settled near Springboro, Warren county. Attended common schools during winter months when a boy. At the age of twenty years entered the Ohio Wesleyan University at Delaware. After leaving college taught school for sixteen consecutive years, studying law in the mean-

time; was admitted to the bar in 1881. Was justice of the peace for twelve years. Elected to the House of Representatives of the 69th and 70th General Assemblies as a Republican, and was re-elected to the 71st General Assembly. On January 1, 1894, he was chosen Speaker of the House of Representatives of the 71st General Assembly.

JOSEPH HUNT BRECK.

JOSEPH HUNT BRECK, Representative from Cuyahoga county, was born in Brecksville, Ohio. His father, a Presbyterian minister, moved to Cleveland while his son was quite young, but later retired and moved to Newburgh on the farm where Joseph still lives. He was educated in the Cleveland public schools and Shaw Academy, at Collamer, Ohio. In 1893 he was elected as a Republican to the 71st General Assembly.

CHARLES BRIGHT.

CHARLES BRIGHT, Representative from Hancock county, was born on a farm in Greenfield township, Fairfield county, Ohio, December 28, 1835; attended district school when not engaged on the farm; enlisted in the 17th Ohio, Company F, September 5, 1861, and served over three years; removed to Hancock county, February 14, 1867, and has been engaged in farming and stock raising ever since. Has filled offices in the township of Marion for a number of years—treasurer of township, trustee and land appraiser in the year 1890, and was elected to the 71st General Assembly in 1893, as a Republican, by a majority of 486, over Moses McAnnelley, Democrat. Received the highest majority ever given a Republican for the office of Representative of Hancock county.

JOSEPH I. BRITTAIN.

JOSEPH I. BRITTAIN, Representative from Columbiana county, aged 35 years, was born in Beaver

county, Pennsylvania, and at the age of sixteen located in East Palestine, where he has since resided. He has been engaged in the mercantile business during his residence in this state. His education was obtained in the high schools of New Brighton, Pennsylvania, and Beaver Seminary. He was elected to the 70th General Assembly as a Republican, and re-elected to the 71st General Assembly.

WILLIAM G. BROREIN.

WILLIAM G. BROREIN, Representative from Auglaize county, was born near Marion, Ohio, October 31, 1861. In the spring of 1866 his parents moved to Auglaize county, locating on a farm in the northwestern part of the county, which was then a wilderness, where his early days were spent in helping to clear up the farm. He attended the common schools during the winter months until the spring of 1879, when he entered the Ohio Normal University. The following three years were devoted to teaching during the winter, in the common schools of Allen and Auglaize counties, and pursuing his studies at the Ohio Normal University during the summer. He taught seven years, the last three of which he had charge of the public schools at Cridersville, Ohio. In 1886 he engaged in the mercantile business at Buckland, Ohio, where he now also operates a plant for the manufacture of wood stirrups, a saw mill and a drain-tile and brick factory. While at Cridersville he was elected to the village council. He served three terms as Clerk of Logan township, and when the village of Buckland was incorporated in 1891, he was elected its first Mayor, and while filling this position was elected as a Democrat to the 71st General Assembly over John L. Sullivan, Republican, by the largest majority given any one on the Democratic ticket.

GEORGE W. BRUBAKER.

GEORGE W. BRUBAKER, Representative from Ashland county, was born January 12, 1828, in Bedford county, Pa.; moved from said county with his parents to Fayette county, Pa. In February, 1834, he came by wagon with his parents to Wayne county (now Ashland county), Ohio, landing near the village of Mohicanville, and lived with one of the pioneers for about five weeks until there could be erected a log cabin 18x20, on a farm near by, all woods, known as the Williams farm, to which place the family, consisting of parents and seven children, moved in April, 1834. Here the subject of this sketch grew to manhood, with very limited opportunities to attend common schools. He attended the Vermillion College from 1847 to 1851, commencing to teach in the common schools in 1848, teaching almost continuously during the winters until the spring of 1884. He served nine years as Justice of the Peace, and filled many other offices in his township. Was elected to the 71st General Assembly as a Democrat, in November, 1893, over Prof. D. K. Andrews, Republican.

RICHARD L. CANNON.

RICHARD L. CANNON, Representative from Hamilton county, was born on the 19th day of July, 1845, near Cambridge, Dorchester county, Maryland. His father, Ezekiel Cannon, was a farmer and planter, and highly educated. After financial misfortunes, he became a professor of mathematics; and among the positions of honor he held was that of Register of Wills of Dorchester county, Maryland. Richard was educated in the schools of Baltimore, Md. When about eighteen years of age he enlisted in the First Maryland regiment. His clerical ability was soon recognized by his superior officers, and he was ordered as chief clerk to the U. S.

draft rendezvous at La Fayette Square, Baltimore, Md. Transferred in the same capacity to Camp Bradford, and finally made chief clerk of 3d Brigade, 8th A. C., Gen. W. H. Lockwood, commanding. Was mustered out of service June 15, 1865. Mr. Cannon went to Centerville, Queen Anne's county, Md., after the war, and was appointed by Hon. S. E. Dyott, then Clerk of the Circuit Court, as Assistant Deputy. Health failing him, he resigned and returned to Baltimore, from thence came west, locating in Parkersburg, W. Va., where he was appointed clerk by Hon. Geo. K. Leonard, then Recorder of Wood county, W. Va. In 1867 he located at Portsmouth, Ohio, became the local editor of the Portsmouth *Republican*. He soon afterwards enterered upon mercantile pursuits. During his residence in Portsmouth, he took an active part in politics, serving several times as secretary of county and congressional committees, and conductor of political glee clubs. Prior to locating in Cincinnati he never held office. His first political position was Inspector in the Engineers' Department of Cincinnati. Was appointed Superintendent of Station D, Walnut Hills Post-office. Resigned to take a position in the business department of the *Commercial Gazette Co.* He is a member of the Blaine Club, and President of the Blaine Glee Club of Cincinnati. Was elected a member of the House of Representatives of the 71st General Assembly by more than 10,000 majority.

THEODORE S. CARVIN.

THEODORE S. CARVIN, Representative from Williams county, was born in Allen county, Indiana, May 10, 1850. Moved to Williams county, Ohio, in 1867, where he has since resided. Received common school education. Is engaged in the drug business. Was elected to the 71st General Assembly as a Republican.

BYRON M. CLENDENING.

BYRON M. CLENDENING, Representative from Mercer county, was born at Shanesville, Mercer county,

May 16, 1859. Educated in the Celina public schools. He turned his attention to school teaching while fitting himself for the profession of law and was admitted to the bar in 1881, since which time he has practiced law in Celina, Ohio. Served as Prosecuting Attorney of Mercer county two terms, from 1884 to 1890, and as City Solicitor of Celina from 1891 to 1893, declining a second term to accept the nomination for the position of member of the 71st General Assembly, to which he was elected as a Democrat November 7, 1893. Mr. ClenDening is the only member of the Ohio National Guard in the 71st Assembly, being senior Major of the 2d Regt. Inf., O. N. G. He has been a member of the O. N. G. since 1878 and has risen through the various grades to the position of ranking Major of the State.

WILLIAM H. CLIFFORD.

WILLIAM H. CLIFFORD, Representative from Cuyahoga county, was born in Cleveland April 8, 1862, and received his education in the public schools of that city. For seven years was employed in the service of the Woodruff Palace Car Company. For a number of years has been Deputy Clerk in the office of the County Clerk. In 1888 he was elected Vice-president of the Ohio State Republican League and in 1892 was selected a member of the Republican State Executive Committee. He was elected to the 71st General Assembly as a Republican.

JOSEPH B. CUMMINGS.

JOSEPH B. CUMMINGS, Representative from Greene county, was born in Greene county, Ohio, May 31, 1841. Was educated in the common schools of his country district. Served for three years in the 1st O. V. I. in the war of the rebellion. Was severely wounded by gun shot in the left lung at the battle of Chickamauga,

Ga., September 21, 1863, and still carries the rebel ball in his body. Served for eleven years as Justice of the Peace. Is a farmer by occupation. Was elected a member of the 71st General Assembly as a Republican, February 17, 1894, to fill a vacancy caused by the death of the Hon. John B. Allen.

VAN S. DEATON.

VAN S. DEATON, Representative from Miami county, was born August 1, 1847, near Addison, Champaign county, Ohio. His parents both died when he was nine years old. He worked on a farm in summer, going to school in winter. He enlisted in the 16th Ohio Independent Artillery in September, 1864, and served till June, 1865. After the war he attended the National Normal School at Lebanon, Ohio. Then taught school and studied medicine for five years. Graduated from Cincinnati College of Medicine and Surgery in 1873, since which time he has practiced medicine and surgery. Has served sixteen years on the Board of Education of his township. Has been County Examiner of Teachers of his county for ten years. Has been Coronor and served as Justice of the Peace for six years. Has taken an active part in school matters. Been superintendent of township schools for several townships of his county. Served four years as Pension Surgeon under President Harrison. Was elected to the 71st General Assembly as a Republican over Frank Kemp, Democrat, by a majority of 1,484.

FRANCIS B. DEWITT.

FRANCIS B. DEWITT, Representative from Paulding county, was born March 11, 1849, in Delaware county, Ohio. Attended the Normal school at Lebanon, and Wesleyan University at Delaware, Ohio. Enlisted in the 46th O. V. I. in 1861, and served with his regiment

in the battle of Shiloh and on the Corinth campaign when he was mustered out; afterwards became a member of the 121st O. V. I., and participated with his regiment under Thomas in the Tennessee and Georgia campaigns until the close of the rebellion. Is by profession an attorney, and in 1872 located in Paulding. Was elected to the 70th General Assembly as the first Republican representative of Paulding county and re-elected to the 71st General Assembly by 519 majority. Was elected to the House of Representatives of the 54th Congress as a straight-out Republican from the 5th Ohio district in 1894, by a plurality of 1,647, the same district, two years before, having elected a Democrat by 4,604 plurality.

MARTIN DODGE.

MARTIN DODGE, Representative from Cuyahoga county, was born in Auburn, Geauga county, Ohio, in 1851, and passed the first twenty years of his life on a farm. Having passed through the common schools, he became a teacher for two winters. In 1871 he entered Hiram college, where he studied four years, and after that one year in Buchtel college. In 1876 he moved to Cleveland to pursue the study of law. He entered the Ohio State and Union law college, and having studied the required two years was admitted to the bar in 1877. After two years' practice in Cleveland, he went to Kansas, continuing to practice law until 1882, returning in that year to Cleveland. For six years he was engaged in real estate and building operations. For three years following he was business manager of the *Sun and Voice*. He was elected to the House of Representatives of the 70th General Assembly as a Republican in 1891. In 1893 Mr. Dodge was appointed by the governor as chairman of the Ohio Road Commission, and in that capacity contributed an original proposition incorpo-

rated in the report to the effect that inanimate power should be substituted for animal power as a means of transportation upon the common roads, and that steel rails should be substituted for macadamized roads. In June of the same year, the trustees of Hiram college conferred upon him the honorary degree of Master of Arts. In the following November he was re-elected as a Republican member of the 71st General Assembly.

EDWARD W. DOTY.

EDWARD W. DOTY, Representative from Cuyahoga county, was born in Pierrepont, St. Lawrence county, New York, September 15, 1863. He moved to Cleveland when five years of age, where he has since resided. He was educated in the Cleveland public schools, graduating from the west high school in the class of '82. He has been in the newspaper business since leaving school, and is now on the staff of the Cleveland *World*. He was elected to the 70th General Assembly as a Republican in 1891, and to the 71st in 1893. When first elected he was one of the youngest members of the legislature.

CHARLES H. DUNN.

CHARLES H. DUNN, Representative from Morgan county, was born on a farm in Marion township, Morgan county, Ohio, December 20, 1849.

Attended district school during the winter months, until he was 17, when he attended the high school at McConnelsville for a short time. Spent two terms at National Normal School at Lebanon, Ohio, in 1871. Commenced teaching in 1868, and followed that calling until 1880, since which time he has devoted his attention entirely to farming. He still resides on the farm on which he was born. Mr. Dunn was elected to the House of Representatives of the 70th General Assembly, as a Republican, and reëlected to the 71st General Assembly.

AMOS DYE.

AMOS DYE, Representative from Hamilton county, was born April 2, 1847, in Marietta, Ohio. He was educated in the common schools, and studied law with Chamberlain and Hamilton in Marietta, and was admitted to the bar in 1877. In 1880 he removed to Cincinnati where he has held numerous positions of trust. He was elected to the 71st General Assembly as a Republican.

GEORGE ELDER.

GEORGE ELDER, Representative from Clark county, was born in Green township, Clark county, Ohio, January 22, 1839, where he has since lived, with the exception of one year's residence in Kansas. He is of Scotch-Irish parentage; received a common school education; enlisted in April, 1861, in Co. E, 16th O. V. I.; served three months; re-enlisted August 11, 1862, in Co. A, 94th O. V. I., and served until the close of the war; was severely wounded in the battle of Bentonville, N. C., March 19, 1864. He has filled various offices of trust in his township; by occupation is a farmer and stock raiser; was elected to the 71st General Assembly as a Republican by a majority of 2,150 over his Democratic opponent.

LAFAYETTE G ELY.

LAFAYETTE G. ELY, Representative from Fulton county, was born in Knox county, Ohio, in 1834. From 1835 to 1857 he lived in Williams county, his parents being among the pioneers of northwestern Ohio. With the exception of a few terms in the high school at Adrian, Michigan, and a few terms in the normal school at Medina, Michigan, his opportunities for an education were limited to the common schools of Williams county. In 1857, at the age of twenty-three years, he became a

resident of Fulton county; held various township offices and was County Auditor three consecutive terms. He is a farmer by occupation and is now serving his tenth year as president of the County Agricultural Board. He served two years upon the State Board of Agriculture, which position he resigned upon his election to the 70th General Assembly as a Republican. He was re-elected to the 71st General Assembly by a plurality of 1,250 over his competitor.

JAMES M. FARRELL.

JAMES M. FARRELL, Representative from Fairfield county, was born June 10, 1867, at Clarksville, Clinton county, Ohio, from which place he moved to Carroll, Fairfield county, in the year 1870, where he resided until early in 1889, when he took up his residence at Lancaster, which place is still his home. Was educated at the Carroll public schools. Was appointed to a clerkship in 1886, under President Cleveland's administration, at the government paper mill at Pittsfield, Massachusetts, remaining there about a year. Was transferred to Washington, D. C., where he held a position in the Interior Department until the close of Cleveland's administration. He attended law school while at Washington at the National Law University, having the Hon. Samuel F. Miller, Associate Justice of the United States Supreme Court, for one of his preceptors. Was admitted to the bar of Ohio in December, 1889. Was elected to the House of Representatives of the 70th General Assembly as a Democrat in 1891, over J. J. Elder, Republican. Was re-elected to the 71st General Assembly over H. Clay Drinkle, Republican. Is the youngest member of the 71st General Assembly and was also the youngest member of the 70th General Assembly. Resigned his membership in the House in April, 1894, to accept an appointment under the Federal Government.

WILLIAM FELTON.

WILLIAM FELTON, Representative from Franklin county, was born in Ohio September 29, 1837. Lived in Sandusky county until 21 years of age, working on a farm. Attended college at Delaware. Went into the war in 1862 as an enlisted man. Served until the close of the rebellion. Was aid-de-camp to General Cruft and Adjutant-General to General Kirby. Since the war spent four years in the Northwest in Minnesota. Was a member of that State legislature in 1873-4. Has been engaged in the real estate and contracting business in Columbus for fifteen years. He was elected to the 71st General Assembly as a Republican.

ROBERT P. FISHER.

ROBERT P. FISHER, Representative from Brown county, was born at Lorretto, Essex county, Virginia, June 11, 1837, on the banks of the famed Rappahannock river, near the city of Fredericksburg. Removed to Brown county, Ohio, at an early age, where he has since resided. He is by occupation a farmer and stock raiser. His education is very limited and was obtained under many difficulties in the common schools. He enlisted August 31, 1862, in Co. D., 59th Regt., O. V. I., and served during the war with the army of the Cumberland; was present and took part in the battles of Stone river, Chickamauga, Chattanooga, Lookout Mountain and Mission Ridge, the siege of Knoxville, Sherman's campaign to Atlanta, and was with Thomas through Tennessee to Franklin and Nashville. Was never wounded nor sick, and was never absent from his command a day during his term of service. Was discharged July 16, 1865. He has since held various positions of trust and responsibility, and was elected to the House of Representatives of the 70th General Assembly as a Democrat, and re-elected to the 71st General Assembly.

CHARLES FLUMERFELT.

CHARLES FLUMERFELT, Representative from Seneca county, was born at Old Fort, Ohio, January 28, 1851, was educated in the common schools, and took a special course of two years in the Ohio State University. He early became identified with the grange and other societies looking to the advancement and social improvement of the farmer. He now resides on the old homestead where he was born. In December, 1890, he was elected to succeed the late A. B. Brant for the unexpired term. He was re-elected to the 70th General Assembly and also to the 71st General Assembly as a Democrat.

CALVIN S. GANYARD.

CALVIN S. GANYARD, Representative from Medina county, was born the 20th day of December, 1833, in Granger township, on the farm where he now resides. His educational facilities were limited; three terms at an academy in his own township finished the education begun in the district school. He is by occupation a farmer, having followed it all his life. Soon after the breaking out of the rebellion, he was elected captain of a company of state militia. He has at various times held all the township offices except that of treasurer. On April 4, 1892, he was elected to the House of Representatives of the 70th General Assembly, as a Republican, as successor to Hon. Henry P. Camp, who died soon after taking his seat. He was re-elected to the 71st General Assembly.

WILLIAM H. GLENN.

WILLIAM H. GLENN was born December 12, 1824, near Staunton, Virginia. Parents moved to Gallia county, Ohio, 1829; to Highland county, Ohio, near Hillsboro, 1832. Was brought up on a farm and educated

in the common schools and Hillsboro Academy. Practical mechanic—stone and brick mason; taught school two years and was railroad and express agent ten years. In 1862 recruited a company for the 89th O. V. I., of which he was commissioned captain and ordered to West Virginia. After the battle of Murphreysboro, sent to army of Cumberland; promoted Major and Lieutenant-Colonel in first year's service. Taken prisoner September 20, 1863; confined in Libby, Macon and Charleston prisons; was one of the fifty officers who were taken to Charleston and put under fire of Gilmore's guns. Specially exchanged at Charleston after having been there two months; prisoner eleven months. Took command of regiment just one year from date of capture; was in command of regiment with Sherman in his march to the sea; was in fight at Bentonville, and in grand review at Washington. Mustered out at Camp Dennison 1865. Served two years as treasurer of Highland county; six years as member of school board; last sixteen years in dry goods and boot and shoe business. Elected member of the 71st General Assembly as a Republican.

CHARLES W. GRAY.

CHARLES W. GRAY, Representative from Fayette county, was born and raised in Jeffersonville, Fayette county, Ohio, where he now resides. Received a common school and mercantile education and is a merchant by occupation; also, owns and operates farming lands. Has held both city and township offices. He was married to Miss Alta Bales, daughter of Thomas Bales of London, Madison county, Ohio May 16, 1883. In 1893 he was elected to the 71st General Assembly as a Republican, his opponents being Joshua Mahan, Democrat; Duncan McLean, Peoples party; and J. R. Vannorsdall, Prohibitionist.

DAVID J. GREEN.

DAVID J. GREEN, Representative from Noble county, was born December 7, 1845, near Renrock, Brookfield township, Noble county, Ohio, and he still resides on the farm where he was born. He has always been engaged in farming and fine stock breeding, and has aided materially in improving the live stock of his county. He received his education at the common country schools, except a few terms at normal and high schools. Never was a candidate for any public office until elected to the 71st General Assembly of Ohio in 1893, over Hon. Chris. McKee, who was one of the most popular Democrats of his county.

CHARLES P. GRIFFIN.

CHARLES P. GRIFFIN, Representative from Lucas county, was born September 3, 1842, in Henrietta (near Kipton), Lorain county, Ohio. Brought up on the farm, attended district school winters until fourteen, then at Oberlin. Taught school in Iowa in spring of 1859, and in Missouri from September, 1859, to December, 1860. Became again a student at Oberlin in January, 1861; enlisted in Company C, 7th O. V. I., in April, 1861. Failing health prevented long service in the army. Student at Oberlin in 1862–63–64, teaching winters. In 1864 became one of the proprietors of Oberlin Business College; established and took charge of business college at Hillsdale, Mich., in 1866. Removed to Toledo, Ohio, in 1868, and engaged successfully in real estate and insurance business. Trustee of Hillsdale College 1876 to 1886; and when college buildings were rebuilt after destruction by fire in 1875, one of the largest was named in his honor, "Griffin Hall." Although retaining his residence in Toledo, his business headquarters were in New York from 1874 to 1879,

and in Chicago from 1879 to 1883; since which time he has been profitably engaged in the business of real estate and farming. He was elected in 1887 on the Republican ticket member of the 68th General Assembly, by a majority of 500, re-elected in 1889 by twice this majority, elected for the third time in 1891 by over 1,500 majority, and elected for a fourth term in 1893 by a majority of more than 3,900.

DANIEL HAAS.

DANIEL HAAS, Representative from Pickaway county, was born August 14, 1839, in Walnut township, Pickaway county, Ohio. Received his education in the common district school, Circleville high school, and at Greensburg seminary, Summit county, Ohio. Taught school a number of years. During this time of teaching took a business course at the Lebanon Normal School, Warren county, Ohio. Engaged in farming, and of late years has been employed in settling up estates. Has held many positions of honor and trust. Served as personal property assessor several times, and as real estate appraiser in 1880. Served as justice of the peace, and was elected to the House of Representatives of the 70th General Assembly as a Democrat, and re-elected to the 71st General Assembly.

CHARLES O. HALE.

CHARLES O. HALE, Representative from Summit county, was born March 14, 1850, in Bath township, Summit county, Ohio, where his grandfather settled July 10, 1810, the first settler in the township. Is a farmer, and is the third generation on the farm where he lives, and which he now owns. His education, aside from that gained in common schools, was obtained at Richfield Academy, and the preparatory and commercial schools of Oberlin and Western Reserve College. He

has held township offices; and was elected to the 70th General Assembly, as a Republican, and re-elected to the 71st General Assembly over Perry G. Ewart, Democrat.

CHARLES E. HARD.

CHARLES E. HARD, Representative from Scioto county, was born January 21, 1864, near Haverhill, Scioto county, Ohio. Was graduated from the Portsmouth high school in the class of 1882, serving as president of its alumni in 1892. Followed bookkeeping until 1888, when he entered the law office of Judge J. W. Bannon. Admitted in December, 1889, practiced law in partnership with Hon. A. C. Thompson. Served two years as secretary of the Portsmouth board of trade. Assisted in organizing the Portsmouth Guard, Fourteenth Infantry, Ohio National Guard, resigning its captaincy upon his election to the legislature. Was appointed United States Commissioner in September, 1892. Was elected to 71st General Assembly as a Republican over Hon. R. H. Hayman, Democrat, by a majority of 1,012.

ELIAS D. HARLAN.

ELIAS D. HARLAN, Representative from Clinton county, was born April 1, 1837, near Oakland village, Clinton county, Ohio. With the exception of two years at Antioch College his education was obtained in the common schools of Clinton and Warren counties. September 18, 1861, enlisted in company B, 40th O. V. I. and was mustered out September 20, 1864. Is a farmer by occupation, and in 1891 was elected as a Republican to the 70th General Assembly, and in 1893 re-elected to the 71st General Assembly.

WILLIAM S. HARRIS.

WILLIAM S. HARRIS, Representative from Ashtabula county, was born in Saybrook township, Ashtabula

county, in 1846. He is and has always been a farmer by occupation, and is of the third generation of his family who have lived on the farm where he now resides, since 1818. He was educated in the district schools of his township and at Grand River Institute, Austinburg, Ashtabula county. He has held local office and has been for several years President of Board of Trustees of Grand River Institute. In November, 1893, he was elected to the 71st General Assembly as a Republican.

HARRIS N. HARSHBARGER.

HARRIS N. HARSHBARGER, Representative from Shelby county, was born at Port Jefferson, Ohio, August 8, 1862. He attended the village and district schools until he was twelve years of age, at which time, being left an orphan he began to make his own way in the world. For five years he was employed on a farm, then took up the study of civil engineering devoting his spare time to its study, afterwards pursuing civil engineering as a profession for several years. He also studied bookkeeping and later had charge of the books and the management of one of the leading manufacturing establishments of his adopted city, Sidney.

In 1891 he was elected to the 70th General Assembly as a Democrat, and during the interim between sessions was engaged in the real estate business, at the same time reading law. Was reëlected in 1893 to the 71st General Assembly.

TURHAND G. HART.

TURHAND G. HART, Representative from Lake and Geauga counties, was born in Mentor, Ohio, in 1842. Educated in the common and academic schools. Began the study of law in 1870, and was admitted to the bar in 1872. Was elected treasurer of Lake county in 1872. In 1893 was elected to the 71st General Assembly as a Republican.

JOSEPH THEODORE HASKELL.

JOSEPH THEODORE HASKELL, Representative from Lorain county, was born at North Anson, Maine, on the 13th day of November, 1845. He moved with his parents to Carlisle, Lorain county, Ohio, when he was three years of age. He lived in Oberlin and Huntington, Lorain county, until he enlisted in the United States Army, Co. H., 2d O. V. V. C., in February, 1864, being at that time eighteen years of age, and was mustered out with his company and regiment at Benton Barracks, Missouri, in September, 1865. He taught school for ten years after his return from the army, and was engaged in the business of dairy farming in Huntington, until his removal with his family to Wellington, in 1884. While in Huntington he held the offices of township clerk, township trustee, and justice of the peace, being elected to the latter office three successive terms. In March, 1885, he was admitted to the bar as an attorney, and has been in the practice of law at Wellington, Ohio, since that time. Was elected to the 70th General Assembly as a Republican, and reëlected to the 71st General Assembly by an increased majority.

JOSEPH CHARLES HEINLEIN.

JOSEPH CHARLES HEINLEIN, Representative from Belmont county, was born at Bridgeport, Belmont county, Ohio, on March 22, 1864. He graduated at the Bridgeport high school in May, 1881, and in the fall of the same year he entered the Ohio State University at Columbus, where he finished his course in 1884. In the fall of 1886 he entered the Albany law school of Albany, New York, from which he graduated in June of the following year. In the fall of 1887 he was admitted to the Ohio State bar. Immediately he entered upon

the practice of law at Bridgeport, and ever since he has been engaged in active practice. He held the position of Solicitor of Bridgeport, which position he resigned to enter the contest for Representative. In 1891 he was elected to the 70th General Assembly as a Republican, and in 1893 was re-elected to the 71st General Assembly over George Linn, Democrat, by the unprecedented majority of 1,546 votes.

OLIVER PERRY HELLER.

OLIVER PERRY HELLER, Representative from Lucas county, was born September 20, 1838, near New Philadelphia, Tuscarawas county, Ohio; removed to Providence township, Lucas county, Ohio, in October, 1846; educated in township sub-district school; occupation, farmer. Enlisted in Co. H, 68th O. V. V. I., October 16, 1861, and discharged October 28, 1864, at Chattanooga, Tennessee. Served four terms as Justice of the Peace, and was president of the township school board twelve years. Elected to the 70th General Assembly in 1891 as a Republican, and re-elected to the 71st General Assembly.

CHARLES W. HEOFFER.

CHARLES W. HEOFFER, Representative from Darke county, was born in North Clayton, Miami county, Ohio, August 20, 1852; was educated in the public schools; was ordained a minister in the Christian Church in 1877; chaplain of 4th Regiment U. R. K. of P.; was elected Grand Prelate of Grand Lodge, K. of P., of Ohio, in 1890; was elected to the 71st General Assembly as a Republican over Lewis Gruber, Democrat, by a plurality of 242. The county was from 1,200 to 1,400 Democratic, and he was the first Republican Representative elected from Darke county in 34 years.

SAMUEL B. HILL.

SAMUEL B. HILL, Representative from Hamilton county, was born in Xenia, Greene county, Ohio, in

1862, and was educated in the public schools of Xenia. He taught school first at Carthage, Indiana, then at his home in Xenia. He took charge of the schools of Lockland, Hamilton county, in 1884, where he remained for nine years. He began his political career as a clerk in the city auditor's office of Cincinnati, which place he held at the time of his election to the 71st General Assembly in 1893, as a Republican.

WILLIAM FREDERICK HOFFMAN.

WILLIAM FREDERICK HOFFMAN, Representative from Putnam county, Ohio, was born February 2, 1835, in Hanover, Germany. In 1836 he came to Glandorf, Putnam county, with his parents, where he has since resided. He received his education in common district schools and in the Cincinnati Teachers' Institute; taught school thirty years; was County School Examiner for ten years; has held many positions of honor and trust; served as Justice of the Peace for nine years, and was elected to the House of Representatives of the 71st General Assembly in 1893, as a Democrat.

FRANK A. HUFFMAN.

FRANK A. HUFFMAN, Representative from Van Wert county, was born on a farm near Beaver Dam, Allen county, Ohio, October 17, 1859; received his early education in the village schools; taught several terms of school, and later was graduated from the Ohio Normal University at Ada, O., as a Civil Engineer; later, accepted a position in the First National Bank of Lima, O., which position he resigned in 1887, to engage in the lumber business in Van Wert county. Was elected as a Republican to the 71st General Assembly over O. W. Miller, Democrat.

THOMAS E. HUNTER.

THOMAS E. HUNTER, Representative from Champaign county, was born October 23, 1848, at Mingo, O.; received an early education in the common schools, attended college at Delaware two years, after which he followed the occupation of farming; served a term of three years as Justice of the Peace; was elected to fill the unexpired term of the Hon. S. M. Taylor, in the last session of the 70th General Assembly; was re-elected to the 71st General Assembly over Frank Johnson, Democrat, by a majority of 1,228 votes.

WILLIAM C. HUTCHESON.

WILLIAM C. HUTCHESON, Representative from Columbiana county, was born in Chambersburg, Franklin county, Pennsylvania, January 24, 1834. Attended school at Landisburg, Pa., until 14 years old and then went to the academy at Neville and Shippensburg, Pa., afterwards entering Dixon college; taught his first school at 14 years of age and for six years taught in the winter. He was a drummer boy in an artillery company of the state militia at Landisburg, Pennsylvania, promoted to sergeant, lieutenant and captain, serving five years. He enlisted June, 1861, in Co. H, 47th P. V., at Harrisburg Pa., as a private, was elected fifth sergeant, promoted to third sergeant and orderly sergeant, and first lieutenant. He was wounded in the right arm, and while on the Red River expedition in June, 1864, suffered a sun-stroke. At Berrisville, Va., in the latter part of July, 1864, he was so prostrated from extreme fatigue that he was sent to Frederick City Hospital, Md., for ten months. In the spring of 1865 he moved to Salem, Ohio, and engaged in house painting, and since 1869 he has been engaged in evangelistic work in the Y. M. C. A. Was elected to the General Assembly as a Republican in 1893 by 6,791 plurality.

RUFUS D. JACOBS.

RUFUS D. JACOBS, Representative from Gallia county, was born in Gallia county, August 6, 1832. Was raised on a farm and received his early education in the common schools and in Porter academy in Gallia county. He taught school and studied medicine from 1852 until 1856, at which time he commenced the practice of medicine. Graduated from the old Charity Hospital Medical College, of Cleveland, in 1869. He also received a diploma from the medical department of the University of Wooster in 1871, one from the medical department of the Western Reserve University in 1882, and one from the Ohio Medical College of Cincinnati in 1886. Has been engaged in the practice of medicine for thirty-seven years, and has also been treasurer of Rio Grande college for sixteen years, and a trustee of the same institution for seventeen years. Was elected to the 71st General Assembly as a Republican.

BENJAMIN F. JAMES.

BENJAMIN F. JAMES, Representative from Wood county, was born April 30th, 1863, near Mt. Gilead, Ohio. He entered college in 1880, and took the A. B. degree from the University of Chicago, at the age of twenty-one, having worked on the farm in vacations to help support himself during the college year. For a year after graduation he was professor of Latin and Greek in Burlington College, Iowa. He refused the presidency of that institution to enter Yale University, New Haven, Connecticut, for post graduate and law studies, and received the degree of LL. B. in 1887. He has since practiced law at Bowling Green, Ohio. In 1890 he was chosen first vice-president of the Ohio Republican League, and in 1891 vice-president of the National Republican League of the United States. In April, 1890, he was elected city solicitor of Bowling Green, Ohio, which office he resigned when he was elected to the 70th General Assembly as a Republican. He was re-elected to the 71st General Assembly.

ALLEN JONES.

ALLEN JONES, Representative from Trumbull county, was born September 9, 1829, in Hartford, Trumbull county, Ohio. Graduated in medicine in 1853 at the medical department of the Western Reserve College of Cleveland; has been actively engaged in the practice of medicine ever since. Was commissary sergeant of the 13th O. V. I. in May, 1863. He joined the regiment at Murfreesborough, Tenn., and was with it during the Tullahoma campaign, also at Chickamauga, Mission Ridge and the engagements around Chattanooga. Was with the regiment during the winter campaign of 1863 and 1864 at Knoxville, Strawberry Plains, and Dandridge, Tenn., and with the regiment when it marched through from Nashville to Chattanooga in the spring of 1864. Was at Tunnel Hill, Rockyface Ridge, Pumpkin Vine Creek, Resacca, New Hope Church, and Acmuth, Ga. Was mustered out with the regiment in 1864 and resumed the practice of medicine in Kinsman in 1865. Was relieved from the pension bureau in July, 1864. Was a member of the board of examining surgeons at Warren during the Harrison administration. In 1893 he was elected to the 71st General Assembly as a Republican, by the largest majority ever given in the county.

GEORGE F. KEEFER.

GEORGE F. KEEFER, Representative from Sandusky county, was born in Adams county, Pennsylvania, March 10, 1858. Came to Ohio in 1867 with his parents who settled near Fremont, Sandusky county. He was reared on a farm from early youth and attended the district school winters where most of his education was obtained. Attended a normal school at Fostoria in 1876. He began teaching at the age of sixteen, and taught school during the winter season for twenty years. Served as justice of the peace in his township for two

terms. Is at present president of a county, farm and labor organization known as the Patrons of Industry. Was elected to the House of Representatives of the 71st General Assembly in 1893 as a Republican, over George F. Aldrich, Democrat.

WILLIAM KELLY.

WILLIAM KELLY, Representative from Ottawa county, was born in Ottawa county, Ohio, March 17, 1838. His father, John Kelly, represented the Republicans of the 30th district in the Senate of the 55th General Assembly of Ohio. Mr. Kelly received a common school education and spent two years at Oberlin College—his collegiate course being terminated by the sickness of his father, he being compelled to return home to manage his father's extensive farm. Mr. Kelly has always been a resident of Ottawa county and a life long Republican, and for many years one of the most active and prominent workers of the party in his county and district. As a citizen he has always been in the first rank among business men. He has held many positions of local trust, and for the last seventeen years has been a member of the Port Clinton School Board and for ten years its president. He has been very successful as a business man and in the spring of 1890 was appointed, by the common pleas court of Ottawa county, receiver of the Lakeside and Marblehead Railroad, the duties of which position were so well performed by him that he received the highest approbation of the court upon his discharge. He has always been a farmer and in connection with his farming has been a wholesale dealer in live stock, and as the result of his integrity and fair dealing has established such a reputation as a business man that "his word is as good as his bond." In 1881 he ran for State Senator on the Republican ticket and was defeated by a small majority. He was elected to the 70th General Assembly and was re-elected to the 71st General Assembly by an increased majority.

FRANK A. KELLY.

FRANK A. KELLY, Representative from Perry county, was born at New Lexington, Ohio, his present residence, September 2, 1855, and educated in the public schools until 16 years of age when he attended Ohio Wesleyan University at Delaware, Ohio, and graduated in 1877. Was principal of New Lexington schools one year, read law and was admitted to the bar in 1879. Was elected Probate Judge of Perry county in 1881, and re-elected in 1884. In 1888 he reengaged in the practice of law, and also the manufacture of mine cars and general foundry business. Has held various minor offices in his village and county. In 1893 was elected to the 71st General Assembly as a Republican.

GEORGE KREIS.

GEORGE KREIS, Representative from Hamilton county, was born in Delhi township, Hamilton county, Ohio, October 11, 1853, and has resided there ever since. At the age of 17 years he left school to engage in the drug business, after which he became a commission broker, and finally a traveling salesman, continuing in the last named business for ten years. Served nearly nine years as clerk in the office of the probate judge of Hamilton county, resigning to go into the insurance business, at which he is at present engaged. Was elected to the 71st General Assembly as a Republican.

SAMUEL C LANDIS.

SAMUEL C. LANDIS, Representative from Butler county, was born December 11, 1856, near Collinsville, Butler county, Ohio. He worked on a farm and was educated in the common schools of his native county. Taught school for fourteen years, the last eight of which he was principal of the Third ward schools of Hamil-

ton, Ohio. He has held several township offices, and other important trusts. He received the nomination of his party without opposition, and was elected to the 71st General Assembly as a Democrat, in 1893, over John C. Slayback, Republican.

EUGENE LANE.

EUGENE LANE, Representative from Franklin county, was born near Mt. Carmel, Clermont county, Ohio, October 1st, 1848. He attended the common schools until his sixteenth year, when he enlisted in Company E, 5th O. V. C., and served with his regiment until it was mustered out October 30th, 1865. He then entered the Ohio Wesleyan University at Delaware, graduating with the class of 1871. Shortly after graduation, he was married and removed to Quincy, Illinois, where he was engaged in business until the fall of 1875, when he returned to Ohio and commenced the study of the law. In the spring of 1876 he entered the law office of Hon. L. J. Critchfield as a student and was admitted to the bar in November, 1877. Since that time he has been engaged in the active practice of his profession in Columbus. In June, 1893, he was nominated as one of the candidates for Representative on the Republican ticket and was elected to the 71st General Assembly at the election in November.

SAMUEL LEWIS.

SAMUEL LEWIS, Representative from Delaware county, was born in Wales, August 8, 1832. Came to Ohio with his parents when three years of age. Educated in schools of Licking county, Ohio. Spent early life in Columbus, Ohio, at mechanical labor. For over thirty years has farmed his own lands. Has held township office and was Justice of Peace for twelve years. Was a soldier in the civil war. He was elected to the 71st General Assembly as a Republican.

EUGENE L. LEWIS.

EUGENE L. LEWIS, Representative from Hamilton county, was born in Kenton county, Ky., July 27, 1855, and shortly afterward his parents moved to Ohio, locating at Cincinnati. His father, Alexander H. Lewis, was prominent in railway circles, and for many years was vice president and general manager of the Ohio & Mississippi Railway. Eugene attended the public schools in Cincinnati; Earlham College at Richmond, Ind.; and was graduated from Chickering Institute, Cincinnati, in 1874. He engaged in mercantile pursuits, being in the wholesale grocery business for eight years, after which he organized the wholesale lumber firm of Lewis, Welborg & Hanna. He retired from active business life in 1889, and in 1893 was elected to the 71st General Assembly as a Republican.

JOHN F. LOCKE.

JOHN F. LOCKE, Representative from Madison county, was born on a farm in Madison county, Ohio, August 12, 1848. Worked on the farm and attended district school until 1865, when he entered the Ohio Wesleyan University, where he graduated in 1870. Read law with Hon. R. A. Harrison, then of London, and was admitted to the bar in 1872. Elected solicitor of London in 1873, and mayor in 1875. Elected prosecuting attorney of Madison county in 1876 and 1878. Was a member of the 64th and 65th General Assemblies of Ohio. Was a delegate to the Republican National Convention at Chicago in 1884. Elected to the 71st General Assembly in 1893.

CURTIS E. McBRIDE.

CURTIS E. McBRIDE, Representative from Richland county, was born in Monroe township, Richland county, Ohio, August 11, 1858. He attended the com-

mon county schools until he arrived at the age of sixteen years, when he entered Wooster University, Wooster, Ohio, where he pursued his studies for five years. After leaving college he entered the law office of Burns & McBride, at Mansfield, September, 1879. In March, 1882, he was admitted to the bar. He has been engaged in the practice of the law at Mansfield ever since his admission to the bar. While his practice has been of a general nature, yet he has been largely engaged in corporation practice, being counsel for a number of railroads and other corporations.. In April, 1884, Mr. McBride was elected a member of the board of education of the city of Mansfield, and re-elected in 1887. In 1885 he was elected a member of the city council of Mansfield, and served one term, declining a re-election. He was elected to the 71st General Assembly as a Democrat, over W. W. Cockley, Republican.

JOHN W. McCONNELL.

JOHN W. McCONNELL, Representative from Lawrence county, was born in Lawrence county, Ohio, April 6, 1855; was educated in the common schools, and is by occupation a farmer. Never held any official or public position until he was elected to the House of Representatives of the 70th General Assembly, as a Republican, and re-elected to the 71st General Assembly.

JOHN L. McKEE.

JOHN L. McKEE, Representative from Coshocton county, was born on a farm in Coshocton county, Ohio, August 24, 1840, of Irish parentage. He received an education in the common schools and at the High school of West Carlisle, Ohio, since which time he has been engaged in teaching school and farming. He has held several positions of trust in municipal affairs and was elected to the 71st General Assembly as a Democrat.

SAMUEL K. McLAUGHLIN.

SAMUEL K. McLAUGHLIN, Representative from the Harrison-Carroll District, was born at Adena, Jefferson county, Ohio, September 12, 1846. His grandfather, John McLaughlin, came from Pennsylvania to Jefferson county, Ohio, in the year 1802, and was elected as a member of the House of Representatives from Jefferson county, in 1804, and between the years 1804 and 1836 represented Jefferson county five years in the House, and Jefferson, with several adjoining counties, twelve years in the Ohio Senate. Samuel K. was reared on a farm; received his education at Hopedale College; taught school seven years and has engaged in agricultural pursuits for the past twenty years. Was elected to the 71st General Assembly as a Republican.

CHARLES MERION, JR.

CHARLES MERION, JR., Representative from Franklin county, was born in Columbus February 24th, 1857. He is of the fourth generation of an old family born in Franklin county; his great-grandfather, Wm. Merion, made his way to Ohio on horseback from Massachusetts in 1808, and purchased a large tract of land, now a part of the city of Columbus. Capt. Merion is one of several large families of that name in Franklin county. Charles was educated in the country schools, normal school, Baldwin University and Ohio State University. Engaged in teaching for a number of years; gained a business training in the wholesale dry goods firm of Miller, Green & Joyce, of Columbus, where he was employed three years. In 1882 he took charge of his own and his father's farm, growing a general line of fruits, market produce and grain. Has taken an active part in local politics. Was candidate for representative in 1891 and was defeated by a small plurality; was elected to the 71st General Assembly as

a Republican by 1,800 plurality over lowest competitor in 1893. He was connected with the National Guard from 1878 to 1890· first lieutenant Co. F, 14th Regt., 1880 to 1885; captain from 1885 to 1890, and is now an honorable member of that organization.

WILLIAM S. METCALF.

WILLIAM S. METCALF, Representative from Ross county, was born at Logan, Ohio, December 28, 1839. At the age of twelve his father, a traveling Methodist minister, located in Scipio township, Meigs county, Ohio, where young Metcalf attended the common schools in winter. Then commenced a regular course of instruction in the Ohio University at Athens, alternately teaching in the public schools and attending college until April, 1861, when he enlisted in Co. F, 18th O. V. I., at Pomeroy, Ohio, and was discharged as 3d sergeant in August, by reason of expiration of term of service. Was appointed and commissioned 2d lieutenant in October, 1861, and soon after captain by Governor Tod. At the age of 21 he was in command of Co. D, 75th O. V. I. at Camp McLean, near Lockland, Ohio, participated in all the engagements of the regiment until January 12, 1863, when, by reason of his health, he resigned on surgeon's certificate of disability. Has resided on Lower Twin creek, Ross county, for the past twenty-five years and is a farmer by occupation. Was a member of the board of education of Twin township for several years. Was elected to the 71st General Assembly as a Republican over Taylor Boggs, Democrat.

JACOB F. MEYERS.

JACOB F. MEYERS, Representative from Henry county, was born September 3d, 1853, in Tuscarawas county, Ohio. Was educated in the common schools, supplemented by several terms spent in Fostoria, Ohio, and Valparaiso, Indiana, normal schools. Occupation,

farmer and teacher; held several township offices. Was elected to the 70th General Assembly as a Democrat, and re-elected to the 71st General Assembly.

OLIVER DEWITT MILLER.

OLIVER DEWITT MILLER, Representative from Cuyahoga county, was born at West Greenwood, Crawford county, Pennsylvania. After some years of study in the schools and taking a special study at Allegheny College, he graduated at Bryant and Stratton's Commercial Institute. Engaging in the dry goods business he became known in the New York market as an expert buyer and partner in the dry goods house of Delamater & Miller, at Meadville, Pennsylvania. In 1884 he retired from the mercantile business and entered the real estate and manufacturing business at Cleveland, Ohio. He has served eight consecutive years in the Brooklyn, Cuyahoga county, council, and was elected to the 71st General Assembly as a Republican.

RANDALL MONTGOMERY.

RANDALL MONTGOMERY, Representative from Mahoning county, was born in Youngstown, Mahoning county, Ohio, March 6, 1851. Joseph Montgomery, his father, served in the 50th General Assembly, from Mahoning county. Randall Montgomery was educated in the public schools of Youngstown, and has been engaged in the mercantile business in the city of Youngstown ever since. Was a member of the city council for four years and was elected mayor in 1888 and again in 1890. Was elected to the 71st General Assembly in 1893 as a Republican.

JOHN MOORE.

JOHN MOORE, Representative from Monroe county, was born near Lewisville, Monroe county, Ohio, on

June 5, 1833. Was educated in the district schools and is a farmer by occupation. Taught school for a number of years, was trustee of Center township three years and school director twenty years. Was elected to the 71st General Assembly as a Democrat over G. L. Tyler, Republican, and J. J. Newhard, Alliance, by 1,400 plurality.

EDWARD E. OLMSTEAD.

EDWARD E. OLMSTEAD, Representative from Holmes county, was born in Wayne township, Tuscarawas county, Ohio, June 11, 1860. He worked on a farm and attended the common schools, and at the age of sixteen years commenced to teach, and taught school for several years. He completed his education at Mt. Union College, after which he read law with his brother, P. S. Olmstead, of New Philadelphia, Ohio, and was admitted to the bar June 6, 1882. He began the practice of law at Winesburg, Holmes county; he held several local offices and served two terms as infirmary director of Holmes county, which office he resigned, when, in 1891, he was elected to the 70th General Assembly as a Democrat. Was re-elected to 71st General Assembly.

J. DWIGHT PALMER.

J. DWIGHT PALMER, Representative from Cuyahoga county, was born in Norwich, Conn., his parents moving to Cleveland, Ohio, when he was four years of age. Mr. Palmer has been a resident of that city all his life, save for a period of four years in the early 70's, when he was in Marquette, Mich. During his early manhood he was associated with his father in the forwarding and commission business, and afterward become identified with the old Mahoning railroad and was general freight agent of that road when it consolidated with the Atlantic

and Great Western. In very early life Mr. Palmer was elected to the city council of Cleveland, and served in that body for several years, during which time he succeeded in organizing the paid fire department in that city. While in Marquette he had the misfortune to lose his sight, and his courage, cheerfulness and energy under this great affliction are past commendation. He keeps fully abreast of the times and is thoroughly well informed on the topics of the day. Since his blindness Mr. Palmer has become a pension attorney. He was a member of the 150th O. V. I., and was elected major of the regiment in those early days of the war, when regimental associations elected their own field officers, and was duly commissioned by Governor Tod. He was elected to the 67th and 69th General Assembly as a Republican, and re-elected to the 71st General Assembly.

HARRY W. PAXTON.

HARRY W. PAXTON, Representative from Clermont county, was born December 7, 1864, on a farm near Loveland, Ohio, where his great-grandfather, Col. Thomas Paxton, who was an officer in General Anthony Wayne's army in the expedition against the Indians in the northwest, settled in 1795, being the first settler of Clermont county. Harry Paxton worked on the farm and attended the public schools until he graduated from Loveland high school at the age of eighteen years. After teaching in the public schools two years, he entered the classical course of the Ohio Wesleyan University, at Delaware, Ohio, and graduated in 1890, receiving the degree of B. A. After being principal of Ripley high school for one year he was elected to the 70th General Assembly as a Democrat, over Abner L. Frazer, Republican, by a plurality of twelve votes, being the only one on his ticket elected, except infirmary director. Mr. Frazer contested the election but Mr. Paxton was seated by the Republican House. During the intermissions of the 70th General Assembly, studied

law in Cincinnati Law School, and with Paxton and Warrington of Cincinnati, admitted to the bar in October, 1893. Was re-elected to 71st General Assembly over Capt. T. M. Willis, by a majority of 500.

DAVID H. REED.

DAVID H. REED, Representative from Huron county, was born in Greenwich township, Huron county, Ohio, January 26, 1832. Worked on a farm and attended district school until nineteen years old, then taught school and studied medicine until 1854, when he entered a medical college. In the spring of 1855 commenced practice at North Fairfield, Ohio. In 1863 was commissioned captain of militia by Governor David Tod and organized the militia of the southern district of Huron county and was elected Colonel of the Third Regiment and served until the organization was disbanded.

Was elected to the 71st General Assembly as a Republican over Valentine Wingerter, Democrat, by 1,582 plurality.

JOHN S. RICE.

JOHN S. RICE, Representative from Hardin county, was born in Taylor Creek township, Hardin county, Ohio, October 20, 1838. Was raised on a farm and educated in the district schools and union schools of Kenton. Began teaching at the age of eighteen. Enlisted in the army June 3, 1861, and was a sergeant in Co. G, 4th O. V. I., was taken prisoner at the battle of the Wilderness and was ten months in Andersonville and Saulsbury prisons. Returned home after four years' service and for a time engaged in teaching and farming. Started a general store at Silver Creek, Ohio, in connection with his farming interests and was a Justice of the Peace for twelve years. Now resides in Kenton and is vice-president of the First National Bank of that city. Was elected to the 71st General Assembly as a Republican.

RANSOM B. RICHARDS.

RANSOM B. RICHARDS, Representative from Portage county, was born December 4, 1854, in Uniontown, Stark county, Ohio. He received a common school education, and attended college at Hiram and Oberlin for a short time. He is a farmer by occupation, and was elected to the House of Representatives of the 70th General Assembly as a Republican, and re-elected to the 71st General Assembly over D. C. Coolman, Democrat.

JOHN P. ROCHESTER.

JOHN P. ROCHESTER, Representative from the joint district of Hocking and Vinton counties, was born at Logan, Ohio, on the 21st day of October, 1852, educated in the common schools of his native town. After completion of his school duties, he entered the law office of the famous jurist, James R. Groghan, and under his tutorship was admitted to practice law in 1872. The profession of law not being congenial, he adopted the business of his father that of general merchandise and wholesale produce, which business he continued in until 1890 when he entered the political arena and was elected mayor of Logan, Ohio, and served two terms, until called to the legislature by the Republicans. He resigned the office of mayor to take his seat in the 71st General Assembly, having been elected over John McNamara, overcoming a Democratic majority of 700 in the district. Mr. Rochester is a prominent I. O. O. F. and K. of P. He was married to Emma L. Jennings of Logan, Ohio, September 4, 1876.

WILLIAM C. ROGERS.

WILLIAM C. ROGERS, Representative from Hamilton county, was born in Cincinnati, November 14, 1848. His early education was obtained in the public schools

of that city. At the age of twenty-one years was engaged in manufacturing. For the past eight years has been engaged in the scale business as manager for the Cincinnati Manufacturing Company. He was elected to the 71st General Assembly as a Republican.

HUGH G. ROGERS.

HUGH G. ROGERS, Representative from Marion and Morrow counties, was born near Ebensburg, Cambria county, Pennsylvania, August 15, 1833; moved to Ohio in 1839; lived on a farm and attended school until he was 17 years of age. In 1850 went to Philadelphia and served an apprenticeship at stair building, joiner and carpenter work; in 1853 returned to Ohio and commenced business for himself at Mt. Vernon, where he remained until 1858. Then went to Morrow county and purchased a farm, still continuing the building business, until August 6, 1862, when he enlisted in Co. C, 96th Regiment O. V. I., under A. J. Smith, commanding officer; entered immediately into active service, assisting in driving Kirby Smith and Bragg out of the state. Served under Sherman and Grant; after the fall of Vicksburg was ordered to join Banks in the expedition up the Red River; was discharged at Jefferson Barracks, Missouri; is a member of Creighton Orr Post, No. 501, G. A. R.; served as their commander for two years; was elected to the 71st General Assembly as a Republican, by a handsome majority, over Boston G. Young, Democrat, in 1893, in a Democratic district.

WILLIAM H. ROWLEN.

WILLIAM H. ROWLEN, Representative from Stark county, was born in Pickaway county, Ohio, October 24th, 1852, and secured his early education in the country schools. He began teaching at the age of fifteen years, and later attended the normal school at Lebanon, Ohio, from which he was graduated. He

afterwards took a post-graduate course at Wooster University, receiving the degree of Ph. D. He has served several years as principal and superintendent of schools, and holds a life state certificate. Was elected to the 70th General Assembly as a Republican, and re-elected to the 71st General Assembly by an increased majority.

WILLIAM RUEHRWEIN.

WILLIAM RUEHRWEIN, Representative from Hamilton county, was born in Germany, February 21, 1840. Came to this country when an infant and has resided in Cincinnati ever since. Was educated in the public schools. Has been a member of the Board of Education and Union Board of High Schools. By trade is a machinist and has been with the firm of J. A. Fay & Egan Co. over thirty years and had charge of the tool department twenty-five years. Was elected to the 71st General Assembly as a Republican.

WILLIAM RUSLER.

WILLIAM RUSLER, Representative from Allen county, was born near Lima, Ohio, March 7, 1851. Attended the common schools and the Lima high school. Taught school during the winter term for thirteen years, working on his farm during the summer. Served six years as township clerk and as real estate assessor and census enumerator in 1880. Was appointed by President Cleveland in January, 1886, Government Farmer in charge of the Lac Court O'reille Indian reservation near Lake Superior, Wisconsin, where he had control of 1,200 Indians and three townships of land. Served in this capacity until December, 1888, when he was appointed Indian Agent at La Pointe Agency. Resigned his position in June, 1889, and returned to his farm. Was elected a member of the 71st General Assembly as a Democrat, having no Republican opposition.

EVANS W. RUTHERFORD.

EVANS W. RUTHERFORD, Representative from Meigs county, was born December 22, 1838, on the farm where he now resides, in Columbia township. Educated in the common schools, supplemented by two years at the Ohio University at Athens. Commenced teaching at the age of eighteen years, and taught in winter and worked on the farm in the summer, until July 25th, 1861. Enlisted in Company C, 30th Ohio Volunteer Infantry, for three years. Was discharged August 15th, 1864, at Indianapolis, since which time he has been engaged in farming and stock growing. Has served his township as Justice of the Peace, Trustee, Treasurer and Real Estate Appraiser, and in 1893 was elected as a Republican to the 71st General Assembly.

WILLIAM W. SHERER.

WILLIAM W. SHERER, Representative from Montgomery county, was born in Randolph township, Montgomery county, Ohio, March 26, 1845. Enlisted in the 44th O. V. I. in 1861, serving three years. Re-enlisted in the 8th O. V. V. Cavalry, serving until close of the rebellion, since which time he has lived on a farm. In November, 1893, he was elected to the 71st General Assembly as a Republican, over Harvey H. Iams, Democrat, by a majority of 1,760.

WILLIAM SHULER.

WILLIAM SHULER, Representative from Montgomery county, was born January 7th, 1843, at Sumneytown, Montgomery county, Pennsylvania. Brought up on a farm and attended school at Washington Hall and Freeland Seminary in the county of his birth. Enlisted in Co. B, 107th Regt. Pa. Vol., October 1st, 1861; re-enlisted

February 24th, 1864, at Mitchell's Station, Va. Commissioned First Lieutenant Co. C, 107th Pa. volunteers, September 15, 1864; Captain same company, March, 1865. Captured at Petersburg, Va., August 19, 1864. Prisoner six months. Confined at Libby, Salisbury, N. C., and Danville, Va. Paroled February 22, 1865. Mustered out July 21, 1865. Served four years. Studied medicine and graduated from University of Pennsylvania, March, 1867. Removed to Miamisburg, Ohio, in 1868. Actively engaged in the practice of his profession to present time. Served six years as a member of council. Now president of board of education. Elected a member of the 71st General Assembly as a Republican, by a majority of 1,989.

DAVID L. SLEEPER.

DAVID L. SLEEPER, Representative from Athens county, was born June 15, 1856, in Iowa. He attended Otterbein University at Westerville, Ohio, taught school five years, and graduated from the Cincinnati Law School in 1880, since which time he has practiced law at Athens, Ohio. From 1885 to 1891 was Prosecuting Attorney of Athens county. He has taken an active part in the Ohio Republican League, being a member of its executive committee for five years and its Vice-President in 1891. Was elected to the 71st General Assembly as a Republican.

HARRY C. SMITH.

HARRY C. SMITH, Representative from Cuyahoga county, was born in Clarksburg, West Virginia, Jan. 28, 1863. Since 1865 he has been a resident of Cleveland, where he attended the public schools, finishing in 1882. In this year he began newspaper work as a reporter on one of the weekly papers of the "Forest City." In August, 1883, he began the publication of "The Cleveland Gazette," of which he is now editor and proprie-

tor. In this year he began an active participation in politics, which he has steadily kept up until the present. His paper being the only one of its kind, is looked upon as the Republican organ of the thirty thousand colored Republican voters of the state of Ohio. He has been prominent in politics at Cleveland as the president of political clubs, as a delegate to county and state conventions, and was for four years a Deputy State Oil Inspector. He has gained some prominence as an instrumentalist and composer. In 1893 was elected to the 71st General Assembly as a Republican.

SPAIN J. SOUTHARD.

SPAIN J. SOUTHARD, Representative from Logan county, was born on a farm in Union county, Ohio, July 27, 1857; lived on a farm until fifteen years of age, when with his parents he moved to Logan county; received his education in country schools and at Ridgville, Indiana, College; taught school for two years, is a harness-maker by trade, having carried on a shop for eight years, working at the bench. While thus engaged in 1882 was elected to the office of Justice of the Peace and afterwards Mayor of his native village, West Mansfield, and during said term of office became greatly interested in law, and by close study and effort, without lectures or a term at a law college, he was in the spring of 1891 admitted to practice law in the state of Ohio. He located at Bellefontaine, where he still has an office, is an Odd Fellow and a K. of P. and at present is Noble Chief of Kenilworth Castle, No. 47, K. G. E. Was elected a member of the 71st General Assembly by a majority of 1,700 over Hugh Newell, Democrat.

LEONIDAS HAMOLINE SOUTHARD.

LEONIDAS HAMOLINE SOUTHARD, Representative from Union county, was born in Union county, Ohio, in the year 1852. In addition to a common school education, he graduated at the Miami Commercial College

and attended school at the Ohio Wesleyan University three years, and also one year at Hillsdale College, Michigan, when failing health compelled him to relinquish his purpose to complete a classical course. He followed teaching for several years as a means to help him through college, but when his health failed he engaged in farming, which is now his occupation. He was elected to the House of Representatives of the 70th General Assembly as a Republican, and re-elected to the 71st General Assembly. On January 1st, 1894, he was chosen Speaker pro tempore of the House of Representatives.

HENRY K. SPOONER.

HENRY K. SPOONER, Representative from Seneca county, was born March 21, 1837, near Tiffin, Seneca county, Ohio. Received his education at the Seneca County Academy; taught school winters of 1855 and 1856, read medicine and worked on the farm summers; entered the medical department of Western Reserve University in September, 1857, received the degree of M. D., March 19, 1859. He returned to Republic, Seneca county, where he began the active practice of medicine and surgery; was commissioned Assistant Surgeon of the 55th Regiment O. V. I. August, 1861, serving with said regiment in all its campaign work until December 1, 1863, when he was commissioned as surgeon of the 61st Regiment O. V. V. I.; detailed surgeon in charge of Hospital 1st Div. 20th Army Corps; served as such until April, 1865, when he was mustered out of service. Resumed active practice at Republic, and was appointed examining surgeon for pensions at Tiffin, in 1887, and served until April 12, 1893, except during 1891. Was elected to 71st General Assembly in 1893, the first Republican Representative ever elected from Seneca county.

ALEXANDER E. STEWART.

ALEXANDER E. STEWART, Representative from Hamilton county, was born at Sharonville, Hamilton

county, Ohio, December 18, 1850. He was educated in the common schools at Sharonville. At the age of seventeen, he went to work in a general store in the country and from there took a clerical position with Howell Gano & Co., wholesale hardware merchants, Cincinnati. He engaged in the business of manufacturing crackers and cakes in Cincinnati and continued in that business until 1890, when he sold out and engaged in the wholesale provision, flour, grain and salt business. He is president of the school board at Bond Hill, Hamilton county, and village treasurer of the same place. He was elected to the 71st General Assembly as a Republican.

EDWARD H. STRONG.

EDWARD HENRY STRONG, Representative from Hamilton county, was born at College Hill, Hamilton county, Ohio, July 6, 1862. He attended the public schools at College Hill, and took a two years' course at Farmer's College. August 16, 1882, entered the employment of Chas. R. Wild, conducting a general coal and coke business, at Cincinnati, Cumminsville, College Hill and Mount Healthy, which position he held until May 1, 1890, at which time he became a full partner. Mr. Strong has always been a Republican, having held several minor positions within the gift of the party. Was nominated at the Republican county convention in the fall of 1893, and elected to the 71st General Assembly.

BENJAMIN F. TAYLOR.

BENJAMIN F. TAYLOR, Representative from Crawford county, was born in Holmes township, Crawford county, Ohio, March 29, 1849. Attended district school in Holmes township until he arrived at the age of seventeen years. His occupation has been farming and teaching common school; he was elected to the House of Representatives of the 70th General Assembly as a Democrat, in 1891, and re-elected in 1893.

SAMUEL B. TAYLOR.

SAMUEL B. TAYLOR, Representative from Jefferson county, was born in Jefferson county, Ohio, May 17, 1856; was educated in the country schools, at Richland College, Jefferson county, and Hopedale College, Harrison county, Ohio; taught thirteen years in the schools of the county. Law student, notary public and real estate agent; was postmaster three years at Mooretown, Jefferson county, clerk of Ross township three years, and served two terms as mayor of town. Was elected to the House of Representatives of the 70th General Assembly as a Republican, and re-elected to the 71st General Assembly.

JOHN THOMAS.

JOHN THOMAS, Representative from Stark county, was born in Syracuse, Meigs county, Ohio; educated in the common schools of the state at Newman, Ohio; coal miner by occupation. Elected to the House of Representatives of the 70th General Assembly in 1891, as a Republican, and re-elected in 1893.

WESLEY M. TRACY.

WESLEY M. TRACY, Representative from Tuscarawas county, was born September 10, 1841, in Tuscarawas county, Ohio, and was reared on the farm until 20 years of age; attended the common schools and taught one term before serving in the late war. Enlisted in 1861 at the age of 20 years, and was discharged in 1863 on account of sickness. Engaged in the mercantile business for a time in connection with official work. For a number of years his official work required his entire time, having been elected to the office of justice of the peace for eight terms, twenty-four years, township clerk twenty-three years, mayor of the village seven years, clerk of his special school district fifteen

years, treasurer of said district one year, assessor one year, and also served on the village council and other minor offices within the gift of the people, and is now serving on the board of trustees of the Children s Home of his county. Was elected to the 71st General Assembly as a Republican over David A. Lambright. Democrat, by a majority of 588.

MARTIN T. VANPELT.

MARTIN T. VANPELT, Representative from Jackson county, was born February 22, 1849, in Highland county, Ohio. He was reared on a farm and attended the common county schools until he was fourteen years of age when he ran away from home and enlisted with Captain M. Buck, Company H, of the 1st Ohio Cavalry, serving with the company four years. In the fall of 1865 he entered Athens University, but only attended two or three terms, afterwards going to the North Western University at Indianapolis. He taught school for some years, at the same time studying law, and finished under ex-Senator H. A. Sheppard, of Hillsboro, and was admitted to the bar at Jackson, Ohio. He was a candidate for 2d Assistant Sergeant-at-Arms of the Ohio Senate in the winter of 1879–80 but was defeated. Later he moved to Wellston and practiced law with Hon. H. S. Bundy. He served two years as city solicitor. In 1893 was elected to the 71st General Assembly as a Republican.

ANDREW E. WALTON.

ANDREW E. WALTON, Representative from Wyandot county, was born on a farm in Wyandot county, Ohio. Attended district school until the spring of 1876 when he entered the Normal University at Ada, Ohio, completing his course in June, 1882. Taught school eight years. Studied law. Admitted to the bar June 5, 1887. In 1893 was elected to the 71st General Assembly as a Republican.

URI L. WARD.

URI L. WARD, Representative from Erie county, was born at Kelley's Island, Lake Erie, February 27, 1845, and has always resided there. Early in 1864 enlisted in the 130th regiment, O. V. I., in the hundred-day service, serving until the fall of that year, when he entered Oberlin College. After two years' absence he returned home and resumed the work of fruit culture. For twelve years he was justice of the peace and mayor four years. He was elected to the 71st General Assembly as a Republican.

JOHN W. S. WEBB.

JOHN W. S. WEBB, Representative from Cuyahoga county, was born February 16, 1852, at Stotfold, Bedfordshire, England. Moved with his parents to Avon township, Lorain county, Ohio, in 1854, and to Rockport township, now hamlet of Lakewood, Cuyahoga county, in 1858. Moved to Cleveland in 1874, where he still resides. He was educated in the common schools, Humiston's Military Academy, Cleveland, and Felton and Bigelow's Business College, Cleveland. Is engaged in the real estate and insurance business. Was a member of the Cleveland Grays for four years, and a member of the State Board of Equalization in 1891. Was elected to the 71st General Assembly as a Republican in 1893.

CHARLES A. WEISER.

CHARLES A. WEISER, Representative from Wayne county, was born in Lehigh county, Pennsylvania, July 23, 1861. His early life was spent on a farm, and in the iron works of his native county, and attending the common schools during the winter months. At the age of sixteen he moved to Wayne county, Ohio, locating in Baughman township, where he engaged in farming. Served for a number of years as a member of the board of education of his township. Was elected to the House of Representatives of the 69th and 71st General Assemblies as a Democrat.

WILLIAM WELSH.

WILLIAM WELSH, Representative from Knox county, was born April 7, 1838, near Montreal, Canada. Removed with his parents to Ohio, in the spring of 1844. Educated in the common schools of Knox county, Ohio; occupation farmer, stone cutter, teacher, and general insurance. Enlisted April 20, 1861, in Company B, 4th O. V. I.; discharged August 21, 1861, term of enlistment expired. Member of board of education. Two terms of infirmary director of Knox county. Elected to the House of Representatives of the 70th General Assembly as a Republican, in 1891, and re-elected in 1893,

JOHN W. WINN.

JOHN W. WINN, Representative from Defiance county, was born in Muskingum county, March 4, 1855. When Mr. Winn was but two years of age, his parents moved to Vinton county, where they resided until December, 1864, when they moved to the county of Defiance, where he has ever since resided.

He attended the common country schools until he arrived at the age of fifteen years, when he entered the academy at the village of Williams Center, where he pursued his studies for about three years. Mr. Winn was raised on a farm, and after leaving school engaged at farm work during the summer seasons and at teaching school during the winter seasons, until 1878, when he entered a law office at the city of Defiance, and began the study of law. In the fall of 1880 he entered the Cincinnati law college, having been admitted to the senior class, and in April, 1881, he was admitted to the bar. After his admission to the bar, he resumed teaching for one year, when he opened a law office in the city of Defiance, at which place he has since been engaged in the practice of his profession.

In 1884 Mr. Winn was elected prosecuting attorney of Defiance county, a position which he held until Jan-

uary, 1891. He was elected to the 70th General Assembly as a Democrat, and re-elected to the 71st General Assembly.

GUSTAVUS A. WOOD.

GUSTAVUS A. WOOD, Representative from Washington county, was born August 21, 1838, on the farm where he now lives, in Rainbow, Muskingum township. He was educated in an excellent common school at home and at Allegheny College, Meadville, Pennsylvania. At the breaking out of the rebellion he joined the 36th O. V. I., General Crook's regiment. He was wounded in the chin at Antietam and through the head at Chickamauga, after which he was discharged.

In 1888 he was married to Mrs. Lillian T. Doan. He was elected to the 70th General Assembly as a Republican, and re-elected to the 71st over J. W. Collett, by 1,075 majority.

JOHN R. MALLOY, Clerk.

JOHN R. MALLOY, Clerk of the House of Representatives, was born in New Haven, Connecticut, July 16, 1856. When five years of age his mother died after which his father enlisted in the army, serving until the close of the rebellion. Attended the public schools of New Haven until 1867, when he removed to Ohio with his father, and the following year took up his residence at the National Home for Disabled Volunteer Soldiers near Dayton, of which his father was an inmate. Young Malloy remained at the Soldiers' Home, attending school until the summer of 1869, when he was obliged to leave, the law establishing the Home not permitting children of soldiers to become inmates. He returned to Connecticut and was apprenticed to the printer's trade in the office of the Meriden Daily Republican. Upon the establishment of the Soldiers' and Sailors' Orphans' Home at Xenia, in 1870, he returned to Ohio and attended the Home school until the summer of

1872, when, having arrived at the age 16 years, he was discharged from the Home. Was appointed a page in the Ohio Constitutional Convention of 1873–74 by President (afterwards Chief Justice) Morrison R. Waite. Was recording clerk of the House of Representatives of the 62d General Assembly and assistant clerk during the 67th and 68th General Assemblies. Was a member and president of the Ohio State Board of Pardons in 1890–91, which position he resigned on being elected Clerk of the House of Representatives at the organization of the 70th General Assembly. Was again elected Clerk at the organization of the 71st General Assembly. He is a newspaper reporter by occupation.

ANDREW JACKSON, Sergeant-at-Arms.

ANDREW JACKSON, Sergeant-at-Arms of the House of Representatives, was born near Cedarville, Greene county, Ohio, December 25, 1845. Received a common school education at Xenia, Ohio, enlisted in the 94th O. V. I., August, 1862; served three years; was elected as Representative of Greene county to the 68th General Assembly and re-elected to the 69th General Assembly. Was elected sergeant-at-arms of the 70th and 71st General Assemblies. He is a farmer and breeder of fine horses.

FREDERICK BLANKNER.

FREDERICK BLANKNER, Third Assistant Sergeant-at-Arms, was born in Germany, July 28, 1836. One year later his parents moved to America and settled in Columbus, Ohio, where he has since resided. For two years he served in Co. A, 5th Battalion, O. V. I. In 1856 he was appointed porter in the House of Representatives and twice was re-appointed to that position, after which he was elected Third Assistant Sergeant-at-Arms, which office he has held continuously to the present time, his valuable services being recognized by both political parties.

LEGISLATIVE CORRESPONDENTS—1894.

Blair, H. N., Columbus Press-Post.

Bond, W. W., Youngstown Telegram.

Caldwell, Hartzell, Cincinnati Tribune.

Connelly, J. B. K., Columbus Sunday News and Cincinnati Frie Presse.

Dickey, M. C., Cleveland Press.

Dustman, F. L., Toledo Blade.

Faulkner, J. W., Cincinati Enquirer.

Fenton, E. B., Columbus Press-Post.

Flickinger, J. W., Ohio State Journal.

Galbraith, Howard, Cleveland World.

Gordon, Geo. H., Cleveland Plain Dealer and Columbus Dispatch.

Jennings, Malcolm, Cincinnati Commercial Gazette.

Karger, Gus. J., Cincinnati Commercial Gazette.

Landon, Hal D., Cleveland Leader and Toledo Commercial.

Landon, Karl E., Cincinnati Enquirer.

McClure, Samuel G., Cleveland Leader and Toledo Commercial.

Miner, Harry, Cincinnati Times-Star.

Stephens, L. P., Columbus Dispatch and Cleveland Plain Dealer.

Taylor, W. A., Cincinnati Enquirer.

Vallandigham, C. N., Cincinnati Post.

FROM THE REVISED STATUTES OF OHIO.

PART I, TITLE II.—LEGISLATIVE.

CHAPTER I. ORGANIZATION OF THE GENERAL ASSEMBLY.

CHAPTER 2. TESTIMONY IN IMPEACHMENTS.

CHAPTER 3. POWERS OF COMMITTEES.

CHAPTER 4. JOURNALS, AND THE PRINTING AND DISTRIBUTION OF LAWS AND DOCUMENTS.

CHAPTER 5. OPERATION OF STATUTES.

CHAPTER I.

ORGANIZATION OF THE GENERAL ASSEMBLY.

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25. Organization of the Senate.
26. Officers of the Senate; their election.
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28. Officers of the House; their election.
29. Additional assistants; when and how elected or appointed.
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32. Clerks and sergeants-at-arms; to control assistants.
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36. Power of each branch over absent members.

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39. Duties of sergeant-at-arms at close of session.
40. Salary and mileage of members of the General Assembly.
41. Per diem of officers of the Senate and House.
42. The word "attendance" construed.
43. Compensation of the clerks of the two branches for services after adjournment.
44. President of the Senate and speaker of the House to certify as to per diem.
45. Compensation of sergeant-at-arms for services after adjournment.
46. Compensation of pages and other employes.

SEC. 24. For all purposes of the organization of the senate and house of representatives of the general assembly the certificate of election, from the clerk of the court of common pleas of the proper county, shall be held and considered as prima facie evidence of the right to membership of the person therein certified to be elected senator or representative.

SEC. 25. At the hour of ten o'clock, forenoon, of the day appointed for the beginning of any regular session of the general assembly, the president of the senate, or in case of his absence or inability, the oldest man present who is a senator elect, shall take the chair and call the members elect to order, and shall appoint one of them clerk pro tempore; and the president or chairman shall then call over the senatorial districts in their numerical order, and as the same are called the persons claiming to be members shall present their certificates and take the oath of office.

SEC. 26. After the senators elect have taken the oath of office, if there be a quorum present, the senate shall proceed to the election of a president pro tempore, a clerk, and five assistant clerks, to-wit: a journal clerk, a message clerk, an engrossing clerk, an enrolling clerk, and a recording clerk; a sergeant-at-arms, a first assistant sergeant-at-arms, and a second assistant sergeant-at-arms; and the election shall be in the order herein stated, and by viva voce voting. [*As amended April 17, 1882*; 79 v. 104.]

SEC. 27. At the same time fixed for calling the senate to order, the secretary of state, or in case of his absence or inability, the auditor of state, in the hall of the house of reresentatives, shall take the chair and call the members elect to order, and appoint one of them clerk

pro tempore; the several counties and districts of the state shall be called over by the officer presiding, in alphabetical order, and as the counties are called the members elect therefrom, or from the districts composed thereof, shall present their certificates, and take the oath of office.

SEC. 28. After the representatives elect have taken the oath of office, if there be a quorum present, the house shall proceed to the election of a speaker, a speaker pro tempore, a clerk, and five assistant clerks, to-wit; a journal clerk, a message clerk, an engrossing clerk, an enrolling clerk, and a recording clerk; a sergeant-at-arms, a first assistant sergeant-at-arms, a second assistant sergeant-at-arms, and a third assistant sergeant-at-arms; and the election shall be in the order herein stated, and by viva voce voting. [*As amended April 17, 1882*; 79 v. 104.]

SEC. 29. No additional assistant clerks or assistant sergeant-at-arms shall be elected or appointed in either branch of the general assembly, except on the application of the clerk or sergeant-at-arms, stating the number necessary, and the passage of a resolution by such branch providing therefor; and such resolution may provide either for the election of such assistants or for their appointment by the clerk and sergeant-at-arms, respectively. [*As amended April 17, 1882*; 79 v. 104.]

An act to define the duties of certain officers of the general assembly, and to provide payment for services rendered in the organization thereof.

[Passed and took effect March 20, 1884; 81 v. 58.]

SEC. 1. *Be it enacted, etc.*, That it shall be the duty of the following named officers in each branch of the general assembly of Ohio, to be present at the organization

of the next succeeding general assembly, and to assist in the organization thereof, to-wit: The chief clerk, journal clerk, message clerk, sergeant-at-arms, and the second assistant sergeant-at-arms of the senate and house. [*As amended March 18, 1887*; 84 v. 112.]

SEC. 2. Said clerks and sergeants-at-arms of the senate and house of representatives shall each be entitled to receive pay for the services so rendered, at the rate of five dollars per diem, for a period not exceeding ten days; provided, that in case either of said officers shall have been re-elected to his position in the succeeding legislature, he shall only be entitled to the pay heretofore provided by law.

SEC. 3. This act shall take effect and be in force from and after its passage.

SEC. 30. The oath of office of senators and representatives, the president pro tempore of the senate, the speaker and speaker pro tempore of the house, the clerk of each branch, the assistant clerks, the sergeant-at-arms and the assistant sergeant-at-arms, may be administered by any member, or by any person authorized to administer oaths.

SEC. 31. The clerk and sergeant-at-arms of each branch shall hold their offices during the term of the senators and representatives electing them, respectively, unless sooner removed by resolution of the branch whose officers they are, respectively.

SEC. 32. The clerk and sergeant-at-arms of each branch shall have control and direction of their respective assistants, and may dismiss any of them whose services are not needed, or who do not perform their duties in a satisfactory manner; and either branch may, by resolution, dismiss any such assistants.

SEC. 39. The sergeant-at-arms of each branch shall, immediately after the close of a session, take charge of the books, stationery, and other property furnished for the use of his branch of the general assembly or any member or officer thereof, and cause the same to be delivered into the custody of the secretary of state, who shall give duplicate receipts therefor, one of which the sergeant-at-arms is required to deposit with the auditor of state.

SEC. 40. Each member of the general assembly shall receive the sum of six-hundred dollars for each year of the term of his office, to be paid in monthly installments, not exceeding one-hundred and fifty dollars; provided that there shall be paid at the close of each session the amount due for that year, and also twelve cents per mile each way for traveling from and to his place of residence, by the most direct route of public travel to and from the seat of government, but if any member is absent without leave, or is not excused on his return, there shall be deducted from his compensation the sum of five dollars for each days absence. (*As amended April 15th, 1889*, vol. 86 p. 947.)

SEC. 41. The clerks and sergeant-at-arms of the senate and house, and their assistants, shall receive five dollars for each day's attendance during the sessions.

SEC. 42. The word "attendence" shall be construed to mean all days from the opening to the close of the session, except such days of absence as are not excused by the branch to which the member or officer belongs.

SEC. 43. The clerks of the senate and house of representatives shall receive five dollars per day, each, for the time employed after the adjournment of the general assembly, for making out indexes to the recorded and printed journals, and for reading the proof sheets of the printed journals—the bills therefor to be

approved by the commissioners of public printing or a majority of them; but they shall not receive any other allowance or compensation for services after the adjournment of the general assembly, except as may be provided by law or resolution.

SEC. 44. The president of the senate and the speaker of the house shall ascertain the number of days attendance of each member and officer of their respective branches during the session, and the number of miles travel of each member to and from the seat of government, and certify the same, with the amount due therefor, to the auditor of state.

SEC. 45. The sergeant-at-arms of the senate and house shall each receive five dollars per day for the time employed after adjournment in the performance of the duties required of him, to be fixed by resolution of the respective branches.

SEC. 46. The amount to be paid to the pages and other employes of either branch shall be fixed by resolution of such branch, and shall not be changed during the term for which fixed.

CHAPTER II.

TESTIMONY IN IMPEACHMENTS.

SECTION.		SECTION.	
47.	Depositions on complaint.	49.	Fees in such cases.
48.	Notice in such cases.		

SEC. 47. In all cases where a memorial, petition, or complaint, praying for an investigation of the official conduct of an officer liable to impeachment by the constitution, is pending in, or may hereafter be presented to the house of representatives, it shall be competent,

and lawful for a person preferring such complaint, either before or after the same has been presented, to take depositions of witnesses to substantiate the same, which depositions may be used as testimony before the house in determining whether it will impeach such officer, and may be taken before any person authorized by law to take depositions in other cases.

SEC. 48. Notice shall be given of the time and place of taking such depositions in the same manner as is required by law in other cases; but if the officer, against whom such complaint is made or about to be made is out of the state, then such notice may be left at his place of residence in the same; if he have no known place of residence in the state, then such notice may be published in some newspaper, printed in the county of the state where he last resided, for three consecutive weeks next preceding the time of taking the depositions.

SEC. 49. In case an impeachment be preferred to the senate, and the officer impeached be convicted by the senate, then the person complaining, who has caused the deposition to be taken, shall be allowed the legal fees accruing on the same.

CHAPTER III.

POWERS OF COMMITTEES.

SECTION		SECTION	
50.	Chairman of committee authorized to subpœna witnesses.	53.	Testimony not to be used in criminal prosecution of witnesses
51.	Subpœna, to whom directed. and how served; the form thereof	54.	Fees of witnesses, and sheriffs same as in common pleas.
52.	Punishment for disobeying subpœna, or refusing to answer.	55.	Chairman or member of committee may administer oath.

SEC. 50. The chairman of a standing or select committee appointed by the general assembly, or by either branch thereof, and authorized to send for persons and papers, and the chairman of a sub-committee appointed by a standing or select committee, so authorized, have authority to subpœna witnesses in any part of the state, to be and appear before such committee or sub-committee at such time and place as may be designated in the subpœna, to testify touching matters of inquiry committed to the committee or sub-committee, and to cause the production of books, papers, and records by such witnesses.

SEC. 51. The subpœna shall be directed to a sergeant-at-arms; if issued by a joint committee, or a sub-committee of a joint committee, to the sergeant-at-arms of either branch, as the chairman may determine; but if issued by committee of one branch, or a sub-committee of such committee, then to the sergeant-at-arms of that branch; or in either case to the sheriff of any county; and it shall be by the officer to whom directed or his assistant or deputy, served and returned to the chairman issuing the same, as subpœnas issued by courts of record, and it shall be substantially in the following form:

THE STATE OF OHIO, —— COUNTY, SS.

To the sergeant-at-arms of the——, or the sheriff of the county of —— (as the case may be):

By authority of the (*insert General Assembly, Senate, or House of Representatives, (as the case may be)* of the state of Ohio, you are hereby commanded to summon —— ——, of ——, to be and appear before the —— committee of the said ——, at ——, on the —— day of ——, A. D. ——, at the hour of ——, then and there to testify touching matters of inquiry committed to said committee, and not to depart without leave of said com-

mittee. Of this writ make due return, with your proceedings in this behalf indorsed thereon.

Witness my hand this —— day of —— A. D. ——.

—— ——, *Chairman.*

SEC. 52. Whoever willfully fails to appear in obedience to such subpœna, or appears and refuses to answer any question pertinent to the matter of inquiry, or declines to produce any paper or record in his possession or control, shall be liable to the pains and penalties for contempt of the authority of the general assembly, if the committee be a joint committee, or of the proper branch of the general assembly, if the committee be appointed by only one branch, and shall be dealt with by the general assembly, or such branch thereof, according to parliamentary rules and usages in cases of contempt; and the chairman of the committee, before which such person fails to appear, or refuses to answer or produce a paper or record, as aforesaid, on the order of the committee or subcommittee, shall report the fact to the proper branch of the general assembly, and, on like order, issue a warrant for the arrest and conveyance of the witness before that branch to answer for the contempt; and the sergeant-at-arms or sheriff to whom such warrant is directed, shall forthwith execute the same; but the proceedings against a witness, or his punishment by the general assembly or either branch thereof for contempt, shall not prevent or affect his indictment and punishment for the same offense in any court of competent jurisdiction.

A standing committee on privileges and election of either house of the general assembly, while engaged under the order of such house in taking testimony and making investigations to be reported to it, in a contest for membership thereof, pending therein, with power to send for persons and papers, may, by a

subpœna *duces tecum*, lawfully command a clerk of the common pleas court, having custody thereof, to produce before such committee any poll-book affecting the election involved in such contest, although this may require its removal to another county than that in which his office is situated. *Ex parte Dalton*, 44 Ohio St. 142.

Upon the refusal of the clerk to obey the command of such subpœna, it is lawful for such house, upon his arraignment therein and further refusal, to order his commitment to jail as for contempt of its authority, until he obeys, or signifies his willingness to obey, the command of such subpœna; such imprisonment not to extend, however, beyond the pending session of the general assembly. *Ib.*

SEC. 53. The testimony of a witness examined before a committee or sub-committee shall not be used as evidence in a criminal proceeding against him; but this privilege of exemption does not apply to an official paper or record, which may still be used against him although he produced it on such examination; and no witness may refuse to testify to any fact or decline to produce any paper touching which he is so examined, for the reason that his testimony, or the production of the paper, tends to disgrace him.

SEC. 54. Sheriffs and witnesses are entitled to the same fees and mileage for services and attendance, in this behalf, as are allowed by law in the court of common pleas for similar services and attendance; and the same shall be paid out of the state treasury on the certificate of such chairman.

SEC. 55. The chairman or any member of a committee of the general assembly, or of either branch thereof, or of a sub-committee, may administer the oath to witnesses produced or appearing before such committee or sub-committee.

CHAPTER IV.

JOURNALS, AND PRINTING, AND DISTRIBUTION OF LAWS AND DOCUMENTS.

SECTION		SECTION.	
56.	Journals of the general assembly.	67.	Distribution of laws.
57.	What the journals shall not contain.	68.	Laws, journals, reports, and executive documents; how distributed.
58.	How many copies of journals to be printed and what appendix thereto to contain.	69.	Officers entitled to the laws
59.	Duty of clerks in relation to printing documents.	70.	Laws, journals, and executive documents to be sent to county auditors.
60.	Clerks to read and correct proofs, and make out index.	71.	Duties of county auditors and clerks respecting the laws, etc.
61.	Certain annual reports to be made out by November 5th.	72.	Secretary of State to deliver copies to the Gveronor, and to other officers.
62.	State officers to make annual reports on or before November 20th.	73.	Journals, documents, and laws, how bound, etc.
63.	Number of reports; how published and distributed.	74.	Copies not distributed to be preserved.
64.	Certain reports—how bound, etc.	75.	Surplus public documents sent to counties may be distributed or sold by order of the commissioners.
65.	Messages and inaugural addresses of the Governor.	76.	Public documents to be sent to the newspapers.
66..	Executive documents.		

SEC. 56. The clerk of each branch shall keep a journal of the proceedings thereof, which shall be read and corrected in its presence. After the reading and approval of the journal of the proceedings of each day, it shall be attested by the proper clerk, after which the same shall be recorded in books to be furnished to the clerks, respectively, for that purpose by the secretary of state; and after the journals are recorded in these books, they shall be deposited with the secretary of state, who shall carefully preserve them; and these records shall be considered and held to be the true and authentic journals. The original daily journals as kept, corrected, approved and attested, shall be delivered by the respec-

tive clerks to the printer of the journals for his use in printing them; and each clerk shall read and correct the proof-sheets of the journal kept and attested by himself, carefully comparing such proof-sheets with the record herein provided for, and correcting all errors in the proof-sheets.

The journals are the best evidence of the action of the general assembly, *State* v. *McCollister*, 11 Ohio 46; *State* v. *Moffit*, 5 Ohio 358; *Miller* v. *State*, 3 Ohio St., 475; *S. B. Northern Indiana* v. *Milliken*, 7 Ohio St., 384; *Fordyce* v. *Gobman*, 20 Ohio St., 1.

SEC. 57. No executive message, address or communication of a state officer, or board of officers, no report of the superintendent or other officers of any institution or building, no petition or memorial, or argumentive or voluminous report of a standing or select committee of either branch, or joint committee of both branches, no special report of any officer or board of officers made in reply to any resolution of either branch, or in reply to any joint resolution, nor any other long or voluminous document, except amendments to the constitution and to bills and resolutions, and the protests of members of either branch against any act or resolution thereof, shall be entered upon the journals or recorded in the books provided for, in the foregoing section.

SEC. 58. Six hundred copies of the journal of the senate, and the same number of copies of the journal of the house of representatives, shall be printed as kept and recorded; and to each printed journal there shall be an appendix, in which shall be printed all petitions and memorials, all reports of committees, all special reports, the communications of all officers or boards of officers that are laid before either or both branches, and all

other papers and documents (except the report of the state board of agriculture) that are laid before either or both branches in writing, unless the printing thereof is otherwise provided for by law; but no paper or document shall be printed in either appendix, unless the branch before which such paper or document be laid expressly orders it to be printed in the appendix to the journal of the branch; and if any paper or documents be laid before both branches, and be ordered to be printed by both, it shall be printed only in the appendix to the senate journal: and the abstract of votes for governor and other state officers shall be printed in the appendix to the senate journal, and the standing rules in the appendix to each journal, without an order by either or both branches. And there shall be printed prior to the first day of January each year, copies of all reports of all the benevolent, penal and reformatory institutions of the state, and of the board of public works provided for, and for the use of each member of the general assembly, at least one copy of each report shall be laid upon the desk of every member of the general assembly on the first day of every regular or adjourned session. [*As amended May 1, 1891*; 88 v. 498.]

SEC. 59. Each clerk shall carefully preserve, during the session, all papers and documents that may be laid before the branch of which he is clerk; and such of them as are ordered by such branch to be printed he shall forthwith deliver to the printer for his use in printing them, and the printer shall immediately print three hundred and sixty copies thereof, of which number each of the executive officers shall receive one, and the state librarian five, which he shall preserve, and no extra copies of any paper or document shall be printed

unless the same be ordered by joint resolution, adopted within ten days of the day on which the three hundred and sixty copies are printed and delivered to the clerks; and if extra copies be so ordered, the printer shall print the same without any charge for composition for such extra copies; and each clerk shall keep a correct list of all papers and documents of which extra copies are ordered to be printed, and also all of such as are ordered to be printed in the appendix to the journal of the branch of which he is clerk, and shall furnish the printer with copies of such lists whenever requested by the printer so to do; and if any paper or document be ordered to be printed in the appendix to either journal before the same is delivered to the printer, the clerk having charge of it shall indorse upon it before sending it to the printer these words, "ordered to be printed in in appendix," and if any such paper or document be ordered printed in either appendix within ten days after the same was printed for the use of the general assembly, then no charge for composition can be made for printing it in the appendix. [*As amended February 28, 1884*; 81 v. 29.]

SEC. 60. The clerks shall read and correct the proofs of all papers and documents that are ordered by either branch to be printed, and the clerks shall each make out a correct index to the journal kept by himself, and also of its appendix, and deliver the same to the printer, who shall print them at the close of the proper volume, and they shall each in like manner make out an index to the recorded journals, and deliver the same to the secretary of state, who shall preserve the same with such recorded journals.

of the general assembly, five copies; each copy to contain a correct railroad map of the state; of railroad maps, mounted on pasteboard, for the commissioner, one thousand copies; for each member of the general assembly, sixty copies; of railroad maps in pocket edition form, for the commissioner, one thousand copies; for each member of the general assembly, ten copies.

Commissioners of fisheries; For the commissioners, five hundred copies.

State inspector of oils: For the inspector, three hundred copies.

Adjutant-general: For the adjutant-general, six hundred copies.

Board of public works; For the board, three hundred copies.

Warden and directors of the penitentiary: For the warden and directors, five hundred copies.

Institution for the education of the deaf and dumb: For the institution, one thousand copies.

Institution for the education of the blind: For the institution, five hundred copies.

Columbus asylum for the insane: For the superintendent, five hundred copies.

Athens asylum for the insane: For the superintendent, five hundred copies.

Dayton asylum for the insane: For the superindent, five hundred copies.

Cleveland asylum for the insane: For the superintendent, five hundred copies.

Longview asylum for the insane: For the superintendent, five hundred copies.

Boys' industrial school: For the superintendent, five hundred copies.

Girls' industrial home: For the superintendent, five hundred copies.

Institution for idiotic and imbecile youth: For the institution, one thousand copies.

Board of state charities: For the board, two thousand copies.

Soldiers' and sailors' orphans' home: For the board of trustees, one thousand copies.

Soldiers' and sailors' home: For the board of trustees, five hundred copies.

Ohio state university: For the trustees and officers, five thousand copies.

Inspector of mines: For the inspector, four thousand copies; for each member of the general assembly, twenty-five copies.

Commissioner of statistics of labor: For the commissioner, forty-five hundred copies; for each member of the general assembly, fifty copies.

Superintendent of insurance: For the superintendent of the fire and life insurance report, three thousand copies; for each member of the general assembly of the fire and life insurance report, ten copies.

Meteorological bureau: For the board of directors, two thousand copies.

Inspector of shops and factories: For the inspector, four thousand copies; for each member of the general assembly, ten copies.

Forestry bureau: For the board of directors, two thousand copies.

State board of agriculture: For the board, five thousand copies; for each member of the general assembly, one hundred and thirty copies.

The report of the secretary of state, of commissioner of labor statistics, of the inspector of shops and factories, and the state board of agriculture, shall also be printed in the German language; and the secretary of state shall ascertain from each member of the general assembly how many of the copies to which he is entitled, he wishes in the German language, and the aggregate number so determined shall be printed in German and distributed to the members of the general assembly accordingly. The several reports furnished to members of the general assembly shall be boxed and directed to the members, in care of the county auditor of the county where they respectively reside, unless the members shall otherwise direct; and the charges for transportation of such reports shall be paid in the same manner as is provided by law for the distribution of laws and journals. [*As amended May 1, 1891:* 88 v. 498.]

SEC. 64. The report of the secretary of state, commissioner of common schools, superintendent of insurance, commissioner of railroads and telegraphs, state board of agriculture, commissioner of the statistics of labor, and the auditor of state's report, shall be bound in muslin and properly lettered on the back; and all other reports mentioned in section 63, shall be bound in brochure covers, unless otherwise ordered by joint resolution. [*As amended March 6, 1888:* 85 v. 64.]

SEC. 65. All regular messages of the governor, and all inaugural addresses of the governor-elect, shall be printed in pamphlet form, for the governor delivering such messages or addresses, five hundred copies; for each member of the general assembly, ten copies, without any order by either or both houses for the printing thereof. [*As amended March 6, 1888:* 85 v. 64.]

SEC. 66. At the same time that the documents mentioned in sections sixty-three and sixty-five are printed in pamphlet form, there shall be printed on the same type, six hundred copies of each document named, in a volume or volumes, paged consecutively, with running heads designating each report, to be styled "executive documents," to be bound in half-law binding, and the supervisor of public printing shall make out an index to be printed at the commencement or close of each volume. There shall be no charge for composition for printing the one thousand [six hundred] copies of said executive documents, except for the index and title page; but the commissioners of public printing may allow a fair compensation for the time consumed in changing the forms. One copy of this "executive document" when so bound shall be sent to each member of the general assembly, and two copies of these executive documents when so bound, shall be sent to each county auditor, one to be placed on file in his office and the other in the office of the county clerk; the report of the secretary of state, auditor of state, commissioner of railroads and state school commissioner, shall not be put in the executive documents. [*As amended May 1, 1891:* 88 v. 498.

SEC. 67. There shall be printed thirty thousand copies of the laws and joint resolutions; and all the laws, general and local, and joint resolutions, shall be printed in one volume. Three thousand copies shall be printed in forms of sixteen pages, as soon as practicable after enactment, ten copies of which shall be delivered promptly to each member of the general assembly, and the balance sent by the secretary of state, pro rata, according to population, to the auditor of the several

counties. The remainder (twenty-seven thousand) shall be bound in half-law binding and distributed as provided by law.

SEC. 68. Each member and officer of the general assembly, for himself, and each clerk of each court of record, and each county auditor, for the use of their offices, respectively, shall be entitled to one copy of each journal and appendix, and one copy of the executive documents; each university, college, academy, or other literary institution, which now is, or may hereafter be, established in this state; each county agricultural society, each county council of patrons of husbandry, and the national asylum for disabled volunteer soldiers near Dayton, and each benevolent and eleemosynary institution of the state, shall be entitled to receive from the county auditor, one copy of the laws passed at each session of the general assembly; also one copy of each journal and appendix, one copy of the executive documents, and one copy of the agricultural reports. [*As amended January 29, 1885:* 82, vol. 12.]

SEC. 69. Each member and officer of the general assembly, for himself; each judge, and each clerk of every court of record; each justice of the peace, constable, township trustee, township clerk; each mayor, auditor, treasurer, clerk, recorder, trustee of any ward in any city or village; each county auditor, treasurer, recorder, sheriff, prosecuting attorney, commissioner of insolvents, surveyor, coroner, infirmary director, and county commissioner shall be entitled to receive one copy of the laws passed at each session of the general assembly, for their use while filling such office; but every such officer (except members and officers of the general assembly) as may by virtue of his office receive

a copy of the laws, journals, or executive documents, for his use while filling such office, shall deliver the same to his successor in office for his use while filling such office; and if any such person refuses, on demand being made, to deliver them to his successor in office, such person so refusing shall forfeit and pay any sum not less than five nor more than fifteen dollars, to be recovered in an action brought by the successor in office of such person, in the name of the state (for the use of the county where such action is brought), before any justice of the peace of such county; and the secretary of state shall furnish to the judges, clerks, district attorneys, and marshals of the United States courts within this state, for the use of their respective offices, each, one copy of the laws passed at each session of the general assembly.

SEC. 70. The secretary of state shall, as soon as the laws, journals and executive documents of each session are printed and ready for distribution, box up the number of each to which each county may be entitled, together with such number of extra copies of the laws for sale as he deems sufficient to supply the demand for the same, and forward them by public conveyance to the auditor of the county, and the secretary of state shall, in like manner, as soon as the agricultural reports are ready for distribution, box up and distribute the same, as provided in section 63; and if any county-seat be so situated that the laws, journals, reports, and documents cannot be sent to the same by public conveyance, they shall be forwarded to a secure place as near such county seat as practicable, and the secretary of state shall notify the county auditor in writing, of the delivery of the same at such point, and the county auditor shall contract with some person to convey the same to the county-seat. The

treasurer of each county shall, on the order of the auditor, pay the charges for the conveyance of the same from Columbus to such county-seat. [*As amended April 11, 1883:* 80 vol. 107.]

SEC. 71. The county auditor shall deliver the laws, journals, reports, and documents to such persons, institutions, and societies as may be entitled to receive them, when so requested to do, and shall take receipts therefor, and file the same in his office subject to inspection; and all such copies of the laws as may be forwarded to any county for sale shall be delivered by the auditor to the clerk of the court of common pleas, and the auditor shall take his receipt therefor, and file the same with the receipts aforesaid, and the auditor shall charge the clerk with such laws, in a book kept for such purpose in his office at the actual cash cost of the same, which actual cost shall be ascertained by the secretary of state, who shall notify the county auditor thereof, and the clerk shall sell said laws at the actual cost, and quarter-yearly after he has received the same shall pay all moneys which may come into his hands from such sales into the county treasury, and all such moneys shall be considered a part of the general revenue of the county. All copies of the laws which are not disposed of to persons, societies, or institutions entitled to the same, or which are not sold, shall be carefully preserved by the clerk, to be delivered to the officers of any new township, or new village, or hamlet, or to such officers entitled thereto, as may, by any unavoidable accident have lost their copies of the same.

SEC. 72. The secretary of state shall deliver to the governor for his own use, two copies of the laws, and one copy of the journals and documents; he shall deliver

to the auditor of state and treasurer of state, each three copies of the laws, and one of the journals and documents; to each of the other executive officers of the state government, and to each trustee and superintendent of any state benevolent institution, each director and warden of the penitentiary, each member of the board of public works, each member of the state board of agriculture, and each member of the state board of charities, one copy of the same; and the secretary of state shall furnish the governor with such number of copies of each as will be necessary to furnish each state, and each of the departments of the general government of the United States with a copy; and the secretary of state shall furnish the state librarian with five copies of each for the library.

SEC. 73. The journals, executive documents, and laws required to be printed and put up in book form, shall all be bound in half-law binding, and each journal and its proper appendix shall be bound in the same volume, unless, in the opinion of the secretary, the same makes a volume too large for convenience, in which case each journal shall be bound separately, and the appendixes shall be bound separately or together, as the secretary of state may direct.

SEC. 74. All copies of the journals, executive documents, reports and laws, which are not distributed under the provisions of this chapter, shall be preserved by the secretary of state, subject to future distribution by law or resolution.

SEC. 75. When, in any county in the state, the laws, journals, reports, and executive documents ordered by law to be distributed, have accumulated beyond the number required for immediate distribution, and for the

probable future wants of such county, the county commissioners shall authorize the clerk of the court of common pleas of said county to dispose of what may be needed for that purpose, gratuitously, to all public libraries within the county, as may be desired by them for library purposes, and to sell such surplus copies at public sale at such time and place, and upon such previous notice as they may require. The clerk shall pay all moneys arising from such sale into the county treasury, and all such moneys shall be a part of the general revenue of the county.

SEC. 77. Every law passed which contains no provision as to the time when it shall take effect, shall take effect on the first day of May next after its passage.

An act may be shown, by the journals of the general assembly, to have been passed before the date it bears, and when so shown it will speak from the day of its actual passage. *State* v. *Mayor of Perrysburg*, 14 Ohio St. 472: and the repealing clause takes effect at the same time as the rest of the act. *McArthur* v. *Franklin*, 16 Ohio St. 193.

Although an act may be expressly repealed, yet if it appear that it was intended that it should have temporary effect, the language of the repealing clause will be restrained accordingly. *Debolt* v. *O. L. Ins. & Trust Co.*, 1 Ohio St. 563.

An act which is to take effect and be in force *from* and *after* a day named, does not take effect until the expiration of the day named. *Koltenbrock* v. *Cracraft*, 36 Ohio St. 584, but an act which "shall take effect and be in force *from* and *after its passage*," takes effect on the day of its passage, and, in the absence of proof to the contrary, the presumption of law will prevail, that the act took effect from the commencement of the day. *Arrowsmith* v. *Hamering*, 39 Ohio St. 573.

SEC. 78. Whenever a law is repealed which repealed a former law, the former law shall not thereby be revived.

A right of action given by an act of 1816 against stockholders of unauthorized banks was by an act of 1824, suspended, and this latter act was in 1840 repealed—*Held:* that the right of action under the act of 1816, was thereupon in full force, notwithstanding the provision of the act of 1809, which was the same as section 78. *Kearney* v. *Buttles*, 1 Ohio St. 362.

SEC. 79. Whenever a statute is repealed or amended, such repeal or amendment shall in no manner affect pending actions, prosecutions or proceedings, civil or criminal, and when the repeal or amendment relates to the remedy, it shall not affect pending actions, prosecutions or proceedings, unless so expressed; nor shall any repeal or amendment affect causes of such action, prosecution, or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing act.

Under this provision before the clause was inserted, that "when the repeal or amendment relates to the remedy, it shall not affect pending actions," etc., a change in the statute relating to the competency of witnesses, applied to pending cases. *Westerman* v. *Westerman*, 25 Ohio St. 500; *John* v. *Bridgman*, 27 Ohio St. 22. And when a statute giving a right of action for causing death contained a limitation as to the time within which suit might be brought, a repeal of the clause containing such limitation did not affect pending suits. *P., C. & St. L. R. R. Co.* v. *Hine*, 25 Ohio St. 629; *State* v. *Washington Tp.*, 24 Ohio St. 603. And see *Bergin* v. *State*, 31 Ohio St. 111. Under a statute regulating appeals passed during the term at which a judgment was rendered, a party was not prevented from appealing, although the judgment was rendered before the passage of the act. *Rouse* v. *Chappell*, 26 Ohio St. 306. See also *Hayes* v *Armstrong*, 7 Ohio, 1 pt. 247; *Treasurer v. Lennington*, 7 Ohio, 1 pt. 266.

Where a statute provided for an appeal, if the same should be perfected in ten years, and after the rendition of a judgment and before the expiration of ten days, this provision was repealed, and the repeal did not affect the right of appeal. *Bode* v. *Welch*, 29 Ohio St. 19.

Repeals by implication—not favored; but, notwithstanding the constitutional provision (Art. 2, Sec. 16), a subsequent statute revising the whole subject matter of a former statute, and evidently intended as a substitute for it, although it contains no express words of repeal, operates as a repeal. *Lorain P. R.* v. *Cotton*, 12 Ohio St. 263; *Lehman* v. *McBride*, 15 Ohio St. 573; *State v. Bell*, 34 Ohio St. 194.

Amended act, how construed. An act passed in 1871 provided for an appeal "from any order, decision or decree made under an act regulating the mode of administering assignments in trust for the benefit of creditors," passed in 1859. In 1874, the act of 1859 was so amended as to include power to make orders in the insolvency proceeding: *Held*, that the act of 1871 gave the right of appeal from orders provided for in the act of 1859, as amended in 1874. *Brigel* v. *Starbuch*, 34 Ohio St. 280.

Express reference in an act to a particular statute form to be observed in proceedings, virtually incorporates the old statute into the new; and if the former be in general terms repealed, it will, nevertheless, remain in force as to proceedings under the act; but where the reference is general to original and supplementary and amendatory acts, we must look to the law in force at the time the power is invoked. *Clark* v. *Thomas*, 34 Ohio St. 46. If the repealing act provided substantially the same remedy, the right might be prosecuted under it, though there was no express saving. *Knoup* v. *Piqua Bank*, 1 Ohio St. 603.

FROM PART II, TITLE XIV.

CHAPTER IV.

STATE, COUNTY, AND TOWNSHIP ELECTIONS.

SEC. 2977. The sheriff of each county shall, at least fifteen days before the holding of any general election, and at least ten days before the holding of any special election, for any officer named in the next section, give

notice by proclamation throughout his county of the time and place of holding such election, and the officers at that time to be chosen, one copy of which shall be posted up at each of the places where elections are appointed to be held; and such proclamation shall also be inserted in some newspaper published in the county, if any is published therein.

SEC. 2978. All general elections for governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, state commissioner of common schools, member of the board of public works, judge of the supreme court, clerk of the supreme court, judge of the circuit court, judge of the common pleas court, senators and representatives to the general assembly, judge of the probate court, clerk of the common pleas court, sheriff, county auditor, county commissioner, county treasurer, county recorder, county surveyor, prosecuting attorney, infirmary director, and coroner, shall be held on the first Tuesday after the first Monday in November. All votes for any judge for any elective office, except a judicial office, under the authority of this state, given by the general assembly or the people, shall be void. [*As amended March 24, 1886*; 83 v. 35.]

SEC. 2979. The electors of each congressional district in this state shall, biennially, on the first Tuesday after the first Monday in November, vote for a representative in the congress of the United States for the term commencing on the fourth day of March next thereafter. [*As amended March 24, 1886;* 83 v. 35.]

SEC. 2980. In not less than one nor more than five days after the election, or sooner, in case the returns are made, the deputy state supervisors shall proceed to open

the several returns made to them and make abstracts of the votes in the following manner, viz.:

1st. Upon a single sheet, an abstract of votes for governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state and attorney-general.

2d. Upon another sheet, an abstract of votes for governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, state commissioner of common schools, member of the board of public works, judge of the supreme court, clerk of the supreme court, dairy and food commissioner and representatives to congress.

3d. And upon another sheet, an abstract of votes for governor, lieutenant-governor, secretary of state, treasurer of state, attorney-general, state commissioner of common schools, member of the board of public works, judge of the supreme court, clerk of the supreme court, dairy and food commissioner, judge of the circuit court, judge of the common pleas court, representatives to congress, senators and representatives to the general assembly, judge of the probate court, clerk of the common pleas court, sheriff, county auditor, county commissioner, county treasurer, county recorder, county surveyor, prosecuting attorney, infirmary director and coroner.

SEC. 2983. The deputy state supervisors shall make and certify duplicate copies of abstract number one, and inclose and seal the same, and indorse on the envelope "Certificate of the votes for governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state and attorney-general" (either or all as the case may be), and the name of the county in which the votes were given; and shall direct and forward one copy thereof by mail to the president of the senate, at Columbus, and

shall deliver the other copy to a member of the general assembly, who shall deliver the same to the president of the senate, at Columbus; and shall also forthwith make, certify, seal and indorse, in manner aforesaid, a copy of abstracts numbers two and three, and transmit the same by mail to the secretary of state, at Columbus.

SEC. 2984. The president of the senate shall, during the first week of the session of the general assembly, open and publish the abstracts of votes by him received, in conformity to the third section of the third article of the constitution of the state; but if the abstract from any county has not been received by him, recourse shall be had to abstract number two or three, in the office of the secretary of state.

SEC. 2985. If the general assembly of the state should not be in session in January, previous to the second Monday thereof, next after an election for all or any of the executive officers of the state, the governor and secretary of state shall, within five days thereafter, in the office of secretary of state, in the presence of at least two of the judges of the supreme court, open the returns of abstract number two, made to the secretary of state, for said offices; and if such returns have not been received from all the counties, recourse shall be had for such delinquent counties to the returns of the abstract number three; and they shall forthwith proceed to ascertain the number of votes given for the different persons for the several offices of governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state and attorney-general, as the case may be; and the person having the highest number of votes for any of said offices shall be considered duly elected, and shall be so declared by the governor; but if it appear, from the returns of abstracts aforesaid, that two or more persons have the

highest and an equal number of votes for any of said offices, the governor shall communicate such fact to the general assembly by message, at its first session thereafter. [*As amended February 4, 1885:* 82 v. 52.]

SEC. 2993. If any number of persons greater than the number of county offices directed to be filled at any election have the highest and an equal number of votes, the deputy state supervisors aforesaid shall determine by lot which of the persons shall be duly elected; and if, at any election for senators or representatives to the general assembly, there is no choice in any instance, on account of two or more persons having received the highest and an equal number of votes, the deputy state supervisors issuing the certificates of election shall publicly determine by lot who of those having such equal number of votes shall be elected; such decision by lot shall be made in their office aforesaid, at ten o'clock A. M. on the eighth day after the election; and in such case the deputy state supervisors shall not be required to forward the returns of the election until such decision by lot has been made. [*As amended April 25, 1898;* vol. 90, p. 281.]

SEC. 2995. The deputy state supervisors shall, without fee, make, and, upon demand, deliver to the persons elected respectively to the offices of probate judge, clerk of the court of common pleas, sheriff, coroner, county auditor, county commissioner, county treasurer, county recorder, county surveyor, prosecuting attorney, infirmary director, and senator and representative to the general assembly, certificates of their election; and they shall also make, for any elector of his county, upon being paid one dollar therefor, an abstract of votes cast at any election to fill any of said offices. [*As amended April 25, 1898:* vol. 90, p. 281.]

FROM PART I, TITLE XV.

CHAPTER V.

CONTESTS OF ELECTIONS.

SECTION		SECTION	
2997.	How appeal perfected in contest for county office.	3002.	When the court shall hear the case, and how costs adjudged.
2998.	Who may take the testimony.	3003.	How appeal perfected in contest for member of general assembly.
2999.	Penalty for disobeying process of subpœna.	3004.	Mode of procedure in such cases.
3000.	Testimony to be transmitted to court.		
3001.	What is competent testimony, and how errors may be cured.		

COUNTY OFFICERS.

SEC. 2997. The right of a person declared duly elected to any county office, or to the office of probate judge, may be contested by any elector of the county, by appeal to the court of common pleas of the county, when the contestor files notice of such appeal with the clerk of such court, and gives notice thereof, in writing, to the contestee, or leaves such notice at the house where he last resided, on or before the thirtieth day after the day of election; and the notice shall state the grounds of contest, and the names of two justices of the peace before whom depositions will be taken, and the place, and a time not less than ten or more than twenty days from the day of service thereof, where and when the justices will attend to take the same.

The "appeal" in a contested election case must be perfected within the time limited by law, by filing and serving the proper notice, and a failure so to do, deprives the tribunal, before whom it is to be tried, of jurisdiction. *Ingerson* v. *Marlow*, 14 Ohio St. 568; and the time within which the appeal may be taken, by a candidate or electors, counts from the date of the declaration of the clerk and justices. *Taylor* v. *Wallace*, 31 Ohio St. 151.

A notice of contest need not state facts sufficiently to constitute a good case for the contestor. *Howard* v. *Shields*, 16 Ohio St. 184; but the "points" upon which he relies must be stated with reasonable accuracy in the notice, in order that the contestee may be apprised of the general nature of the objections relied on; and if they do not comply with the requirements of the law, the remedy is by objecting to the evidence under them, and not by motion to dismiss. *Ib.*

If, taking the certificate and declaration of the clerk, and the justices called to his aid, in connection with the returns and the abstract, there is no ambiguity or uncertainty as to the date of the declaration parol evidence, in the absence of fraud, is inadmissible for the purpose of fixing the time for taking the appeal. *Taylor* v. *Wallace*, *supra*.

The contestor must show in his notice of contest that he was a candidate or an elector at the election. *Edwards* v. *Knight*, 8 Ohio, 375.

SEC. 2998. Such justices, or either of them, or officers before whom depositions are taken in the case, are authorized and required to issue subpœnas for all persons whose testimony may be required by either party, and subpœnas *duces tecum* for the production of the books, papers, ballots, or things relating to such election; and they may compel the attendance of witnesses, and the production of everything named in the subpœnas.

SEC. 3000. The justices shall not receive any testimony upon any point not named in the notice; and when met they shall hear the testimony, and certify the same, under seal, including a copy of the notice, which shall be delivered to them by the contestor for that purpose, and the same shall be transmitted by them to the court of common pleas of the county, not less than thirty days after the date fixed in the notice to begin the taking of testimony; and the contest shall be heard and determined by the court, if then in session, and if not then in session, at the first term thereof thereafter.

SEC. 3001. On the trial either party may introduce oral testimony, or depositions of witnesses taken as provided in civil actions; and whenever any omission, defect or error occurs in the proceedings of an officer in declaring or certifying that a person was duly elected to and testimony offered at the hearing of any preliminary proceeding, or at the trial.

Poll-books, duly certified and returned, are *prima facie* evidence of the truth of their contents; but this presumption will be rebutted by proof that they are fraudulent and fictitious to such an extent as to render them wholly unreliable. *Phelps* v. *Schroder*, 26 Ohio St. 549.

When poll-books are impeached the burden of proving legal votes otherwise is thrown upon the party claiming them. *Ib.*

The original tally-sheets of an election duly authenticated, are *prima facie* evidence of the election of the person for whom they show a majority of the ballots cast to have been given; and no tally-sheet made after the dissolution of a board will impeach the original. *State* v. *Donnenwirth*, 21 Ohio St. 216.

In the trial of a contested election for a county office, before a court of common pleas, the general rule of evidence which requires the best evidence of which the case is susceptible to be produced, applies in respect to the contents of poll-books, tally-sheets, and the number and contents of ballots cast at such election, if the same are attainable *Sinks* v. *Reese*, 19 Ohio St. 307.

Where the contestee, in a contest between opposing candidates, is adjudged not to have been legally elected, for the reason that the majority of the legal votes rejected, which the contestor would have received was greater than the majority of the votes declared for the contestee, the contestor will not be adjudged elected. In such case neither party is legally elected. *Renner* v. *Bennet*, 21 Ohio St. 431.

A judgment of the court of common pleas, in the case of a contested election, is not vacated, nor its force suspended, by the filing of a petition in error in the district court to reverse such judgment, and an order of a judge of the same, suspending the execution thereof, and a *supersedeas*, *State* v. *Marion Co.*, 14 Ohio St. 515; nor will a peremptory mandamus be awarded against the county commissioners, to compel them to accept the official bond

of a county office on behalf of a relator, who, on the hearing of a contest before the court of common pleas, was found not to have been elected, or entitled to such office, while such finding remains not reversed or set aside. *Ib.*

The finding and judgment of a court of common pleas, in a case involving a contested election, are subject to review, on error, in the district and supreme courts, and this is the case if no motion for a new trial has been interposed and overruled. *Lehman* v. *McBride*, 15 Ohio St. 572; *Phelps* v. *Schroder*, 26 Ohio St. 549.

SEC. 3002. Upon motion of either party, the court shall at once take up and determine any pending matter relating to the contest; otherwise the case shall be heard in the regular order of the docket; and the court shall render judgment against the party failing in the case for all the costs of the contest, including the costs of all depositions.

MEMBERS OF GENERAL ASSEMBLY.

SEC. 3003. The right of a person declared duly elected to the office of senator or representative in the general assembly, may be contested by any elector of the district or county, by appeal to that branch of the general assembly to which such person is declared elected; and such elector shall serve the like notice, in the manner and within the time prescribed in section 2997.

SEC. 3004. The provisions of sections 2998, 2999, 3000, and 3001, shall apply to such contests, except that all testimony taken, and all matter relating to the contest, shall be sent to that branch of the general assembly to which the contestee was declared elected, and be filed with the clerk thereof on or before the tenth day of the first session of the general assembly after the election.

FROM PART III, TITLE I.

RIGHTS AND PRIVILEGES OF MEMBERS.

SEC. 5034. A member of the senate or house of representatives, or an officer of either branch of the general assembly, shall be privileged from answering to any suit which may be instituted against him in a county other than the one in which he resides, upon a cause of action which accrued ten days before the first day of the session of the general assembly of which he is an officer or a member, and in all proceedings in actions to which any such person is a party shall be stayed during such session and during the time necessarily employed in going thereto and returning therefrom.

SEC. 5457. The following persons are privileged from arrest, viz.: members, clerks, sergeant-at-arms, door-keepers, and messengers of the senate and house of representatives, during sessions of the general assembly, and while traveling to and from such sessions, allowing one day for every twenty-five miles of the distance, by the route most usually traveled; and whoever arrests any such person in violation of this provision shall forfeit and pay one hundred dollars, to be recovered by civil action in the name and for the use of the person injured.

SEC. 5458. No person shall be arrested during a sitting of the senate, or house of representatives, within the hall where such session is being held, or in any court of justice during the sitting of such court, or on the first day of the week, commonly called Sunday, or on the fourth day of the month of July.

SEC. 5459. Nothing in this subdivision contained shall be construed to extend to cases of treason, felony, or breach of the peace, or to privilege any person herein specified from being served at any time with a summons or notice to appear; and all arrests not contrary to the provisions herein contained, made in any place, or on any river or water-course within or bounding upon this state, shall be deemed lawful.

SEC. 5460. If, during a session of the general assembly, a member or officer thereof be arrested upon a charge of treason, felony, or breach of the peace, notice thereof shall be given forthwith to the body with which he is connected, by the officer who issued the process upon which the arrest is made.

SEC. 5461. A person arrested contrary to the provisions of this subdivision shall be discharged by a writ of habeas corpus, or in a summary way, by a motion before the court from which the process issued, at the cost of the party who sued out the process.

FROM REVISED STATUTES.

OF THE UNITED STATES.

TITLE II. — THE CONGRESS.

CHAPTER 1.

ELECTION OF SENATORS.

SECTION.		SECTION.	
14.	When senators to be elected.	17.	Vacancy during session of legislature,
15.	Mode of election.	18.	Election of senators certified.
16.	Vacancy occuring before meeting of legislature.	19.	Countersign of certificate.

SEC. 14. The legislature of each state which is chosen next preceding the expiration of the time for which any senator was elected to represent such state in congress, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a senator in congress.

SEC. 15. Such election shall be conducted in the following manner: Each house shall openly, by a viva-voce vote of each member present, name one person for senator in congress from such state, and the name of the person so voted for, who receives a majority of the whole number of votes cast in each house, shall be entered on the journal of that house by the clerk or secretary thereof; or if either house fails to give such majority to any person on that day, the fact shall be entered on the journal. At twelve o'clock meridian of the day following that on which proceedings are required to take place as aforesaid, the members of the two houses shall convene in joint assembly, and the journal of each house shall be read, and if the same person has received a majority of all the votes in each house he shall be

declared duly elected senator. But if the same person has not received a majority of the votes in each house, or if either house has failed to take proceedings as required by this section, the joint assembly shall then proceed to choose, by a viva-voce vote of each member present, a person for senator, and the person who receives a majority of all the votes of the joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected. If no person receives such majority on the first day, the joint assembly shall meet at twelve o'clock meridian of each succeeding day during the session of the legislature, and shall take at least one vote, until a senator is elected.

SEC. 16. Whenever on the meeting of the legislature of any state a vacancy exists in the representation of such state in the senate, the legislature shall proceed, on the second Tuesday after meeting and organization, to elect a person to fill such vacancy, in the manner prescribed in the preceding section for the election of a senator for a full term.

SEC. 17. Whenever during the session of the legislature of any state a vacancy occurs in the representation of such state in the senate, similar proceedings to fill such vacancy shall be had on the second Tuesday after the legislature has organized and has notice of such vacancy.

SEC. 18. It shall be the duty of the executive of the state from which any senator has been chosen, to certify his election, under the seal of the state, to the president of the senate of the United States.

SEC. 19. The certificate mentioned in the preceding section shall be countersigned by the secretary of state of the state.

CONSTITUTION

OF THE

STATE OF OHIO.

[As amended and in force January, 1, 1886.]

We the people of the State of Ohio, [1] grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

1. For original boundary lines of Ohio, see act of Congress approved April 30, 1802. 1 Chase, 70.

For a complete history of the question of boundary between Ohio and Michigan, see *Daniels* v. *Stevens*, 19 Ohio 239; *Myers* v. *Manhattan Bank*, 20 Ohio, 283.

In *Booth* v. *Hubbard*, 8 Ohio St., 243, it was held, that the territorial limits of this State extended on the south-east, at least to the line of ordinary low-water mark on the north-west side of the Ohio River. The Court said: "It does not become necessary in this case, to determine whether the middle of the Ohio River, the *filum medium aquæ*, does or does not constitute the boundary line between the States of Virginia and Ohio." *Ib.*, 245.

However it may be as to our boundary, so far as territory is concerned, it seems that as to navigation and authority with respect to matters civil and criminal, Ohio has jurisdiction concurrent with Virginia and Kentucky over the entire river, along the borders of those States. The question was much considered in the commission that grew out of what is known as the Parkersburg case; and full abstracts of the arguments will be found in the Western Law Journal, Vol. 4, pp. 145—164; Vol. 5, pp. 433—437. See also *Eckerts* v, *Colvin*, 1 West. Law Jour., 54—Wood and Read, JJ.; *Ohio* v. *Stevens*, 2 West. Law Jour., 66; s. c. in error, 14

Ohio, 386; West. Law Jour., 310, 337; *McCullock* v. *Aten*, 2 Ohio, 308; *Benner* v. *Platter*, 6 Ohio, 505; *Blanchard* v. *Porter*, 11 Ohio, 138. *See Const.* 1802, *Art.* VII, § 6.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are, by nature,[1] free aud independent, and have certain inalienable rights, among which are those of enjoying and defending[2] life and liberty, acquiring, possessing and protecting property,[3] and seeking and obtaining happiness and safety.

1. The presumption is that every person in the State, whether a citizen or not, comes within the provision. *Birney* v. *State*, 8 Ohio, 230—238. "The absolute and equal freedom of all persons at birth is a fundamental principle of American institutions, proclaimed with independence and incapable of abrogation. This principle was, by the Ordinance of 1787, impressed on the soil of Ohio, before there was an organized community within her limits; it is fundamental in her organization: always embodied in her Constitution; and her laws, her policy, and the convictions: the morals, and the religion of her people are instinct with its spirit." *Anderson* v, *Poindexter*. 6 Ohio St., 622-634—Brinkerhoof, J.

2. "It is urged that the law in Ohio is, that a person assailed may in all cases, without retreating, take his assailant's life if he reasonably believe it necessary in order to do so to save his own life, or to avoid great bodily harm, and this, although he could, without increasing his danger, retire, and thereby escape all necessity of slaying his adversary. As to what is the precise state of the law on this subject, there is some diversity of opinion among the members of this court, aud therefore, without attempting at this time to lay it down, we prefer to dispose of the case upon a view which is satisfactory to us all. . . . . Whether a person assaulted is or is not bound to quit the combat, if he can safely do so, before taking life, it will not be denied that, in order to justify the homicide, he must at least. reasonably apprehend

the loss of his own life or great bodily harm, to prevent which, and under a real or supposed necessity, the fatal blow must be given. And again, the combat must not have been of his own seeking, and he must not have put himself in the way of being assaulted, in order that when assaulted and hard pressed he might take the life of his assailant." *Stewart* v. *State*, 1 Ohio St., 66—72—Thurman, J.

With respect to the service, beyond the limits of Ohio, of a writ issued by a justice of the peace, the court said: "No legal or moral obligation required the constable to attempt its execution in Indiana and an arrest made upon it there, was a violation of both public and private rights. Services rendered under such circumstances are both voluntary and without authority of law." *Smith* v. *Portage Co.*, 9 Ohio, 25—28—Wood, J.

Whether jurisdiction acquired over the person by bringing the party within our territorial limits, forcibly or fraudulently, can be maintained. See *Gill* v. *Miner*, 18 Ohio St. 182, and cases there cited.

3. "When the nature of the question, and the history of the rulings on the subject of defending person and property, which have illustrated the advancement of the common law from rude and barbarous to refined and enlightened civilization, are clearly taken into view, we shall find the reasoning of Justice Redfield altogether safe and exactly in harmony with the system of government and society to which it is applied. It is well settled, says the Justice (in *State* v. *Downer*, 8 Vermont, 424), that one may defend the posession of his property against a stranger with such force as may be necessary. But this right can not be extended to the case of an officer, whose duty it is to attach property whenever he is requested so to do. He may or may not require indemnity for the act. But it would be too much to say that he must decide all questions of doubtful property at his own hazard, or that if he attempted to make an attachment when the property was not, in fact, in the debtor, he might, by the owner of the property, be resisted to any extremity. . . . It must be familiar to all, that while the tendency of the best and highest American decisions, as well as the very genius of our government, are favorable to an increased regard for the sanctity of the person, by the same law many measures of defense as to property have become obsolete and shocking to the enlightened humanity of the day. If the rule that one must retreat to the wall before killing his assailant has passed away, so has the day of man-traps and spring-

guns. . . . . We hold, then, the better and safer and only practical rule to be, that whenever the question of property is so doubtful that the creditor and officer may be supposed to act, and do act in good faith, and on reasonable grounds for believing the property to be that of the debtor, the owner has no right to resist the execution or attachment by a breach of the peace." Again: "The conversion of an execution into an alias writ can not affect the protection due to the constable to whom it was delivered. . . . It was irregular, but not void." *Faris* v. *State*, 3 Ohio St. 159-166, 168—Warden, J.

SEC. 2. All political power is inherent in the people.[1] Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly.[2]

1. "The constitution apportions political power among the inhabitants of the state as nearly equal as possible, in proportion to numbers without any regard whatever to property, or indeed to any other circumstance. Inhabitants alone are represented; a given number in one place exercise the same political power as a like number in any other locality." *State* v. *Dudley*, 1 Ohio St. 437-442—Ranney, J.

2. Consolidated railroad companies organized in pursuance of the act of April 10, 1856, (53 v. 143), are corporations formed under a general law, within the meaning of article 13, section 2, of the Constitution, and as such are subject to the limitations and reservations contained in this section; and the general assembly may alter and regulate rates of fare chargeable by such companies. *Shields* v. *State*, 26 Ohio St. 86; affirmed, *Shields* v. *Ohio*, 95 U. S. 319.

SEC. 3, The people have the right to assemble together, in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the general assembly for the redress of grievances.

SEC, 4. The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

When a body of militia perform their evolutions, with martial music, and firing, so near the court-house as to interrupt or suspend the business of the court, the officers may be proceeded against for a contempt if they refuse to desist on request. *State* v. *Coulter*, Wright's Rep., 421; *State* v. *Goff*. Ib., 78.

In the first of these cases the court said: "This clause in the Constitution clearly shows the light in which the framers of this instrument viewed resort to mercenary troops in any degree independent of the civil authority. They held such a force dangerous to liberty, and that unalterably and forever to regard it so, was a great and essential principle of liberty and free government. The determination was to constitute the militia, as only a portion of the executive authority, upon whom was devolved the duty of executing the laws and protecting its ministers from violence. It is declared a duty equally essential to liberty to regard even the militia a military force, to be forever kept under a strict subordination to the civil authority. The fathers of the Republic had studied human nature deeply. Devoted to free institutions they were jealous of any influence tending to their destruction. Hence the emphatic annunciation of the essential principle that the military should be kept under strict subordination to the civil authority. Not a word is found in the Constitution giving countenance to the opinion some times expressed, and more frequently felt, that the militia or the military force, instead of being a means to be employed by the executive department in executing the important duty of executing the laws, are a distinct department of the government, equal to either of the others, and independent of their control." 424-425—Wood and Wright, JJ.

SEC. 5. The right of trial by jury shall be inviolate.

A jury is defined to be "a convenient number of citizens, selected and impartial, who, on particular occasions, or in particular causes, are vested with discretionary powers to try the truth

of facts, on which depend the property, the liberty, the reputation, and the lives of their fellow-citizens." It is "a certain number of men sworn to inquire of and try a matter of fact, and declare the truth upon such evidence as shall be given them in a cause; and they are sworn judges upon evidence in matters of fact." "The occupying claimant laws of Ohio came under the consideration of the Supreme Court in the case of the *Bank of Hamilton* v. *Dudley*, 2 Peters, 133. In that case the court concede that the State has the power to secure to claimants of lands their posessions until paid for lasting improvements made by them on the land, but denies the power of the State, by its enactments, to 'change, radically, the mode of proceeding prescribed for the courts of the United States, or direct those courts, in a trial at common law, to appoint commissioners for the decision of questions which a court of common law must submit to a jury.' Such a proceeding, the court suppose, would conflict with the clause in the Constitution of the United States, which declares that in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.' It appears to us obvious that the provision of the Constitution just quoted, applies only to the courts of the United States, and does not prescribe a rule of practise for the courts of a State. . . Indeed, we are unable to discover wherein the law of Ohio conflicts with the Constitution of Ohio. Were we to decide otherwise, there is a series of legislative acts, commencing with the organization of our Government and continuing to this time, that we should be compelled to declare void. We allude to enactments providing juries in cases of forcible entry and detainer, for the trial of the rights of poverty. . . for inquiry in cases of idiocy and lunacy," etc. *Hunt* v. *McMahon*, 5 Ohio, 132-135—Wright, J.

The only way in which we can ascertain the true meaning of this clause, is by making inquiry whether, before the Constitution was framed, jury trial was known in such cases in the Territory of Ohio. . . On what principle is it that juries are dispensed with in the greater number of our courts—in courts of equity, courts of admiralty, courts of martial, and courts of justices of the peace? Magna Charta declares that no man shall be deprived of life, liberty, or property, but by the judgement of his peers or the law of the land. Mr. Sullivan (§§ 39, 40) remarks that, as the juries were unknown in those courts before the great charter, their disuse constituted a part of the law of the land;

and therefore, although the charter was the first great instrument which solemnly guaranteed jury trial to Englishmen, yet it has never been supposed that that institution constituted a part of the machinery of those courts. . . . He who will take the trouble to examine our laws, as well before as since the formation of our Constitution, will find that they are uniformly regarded as an appendage to the courts only. No juries are ever mentioned but such as are auxiliary to the administration of justice in some court. . . . Objections of this kind should ever be listened to with attention and earnestness; for, although, to decide upon the constitutionality of a law, is a duty which no judge should court, yet it is also one from which no judge should shrink." *Willyard* v. *Hamilton*, 7 Ohio, 2 pt., 111-118—Grimke, J.

"By the first of these sections (§ 5) the *right* of trial by jury is recognized to exist; and its continuance unimpeached is provided for. By the last (§ 10) this right is declared to belong to every person accused of any crime or offense, in any court of the State. What, then, is this right? It is nowhere defined or described in the Constitution. It is spoken of as something alreadysufficiently understood, and referred to as a matter already familiar to the public mind. The same article furnishes other examples of the same generality of expression. . . . If ages of uninterrupted use can give significance to language, the right of jury trial and the habeas corpus stand as representatives of ideas as certain and definite as any in the whole range of legal learning. The institution of the jury referred to in our Constitution, and its benefits secured to every person accused of crime, is precisely the same, in every substantial respect, as that recognized in the great charter, and its benefits secured to the free men of England, and again and again acknowledged in fundamental compacts as the great safeguard of life, liberty and property; the same brought to this country by our forefathers, and perseveringly claimed as their birthright in every contest with arbitrary power; and, finally, an invasion of its privileges prominently assigned as one of the causes which was to justify them in the eyes of mankind in waging the contest which resulted in independence. . . . We do not intend to imply a doubt of the constitutionality of the act allowing juries before justices of the peace, composed of six men. Wherever facts are to be found in any proceeding, in which a jury was not required by the common law, a jury of any number may be authorized, within the discretion of the legislative body. Juries did not belong to these inferior courts at the common law;

and so long as an appeal is provided for to the common law courts from their determination, it is clear no constitutional objection can arise, whether facts are found by the magistrate, or by the aid of a jury or any number of men." *Work* v. *State*, 2 Ohio St 296—302 Ranney, J.; *Norton* v. *McLeary*, 8 Ohio St. 209.

It is beyond the power of the general assembly to impair the right or materially vary its character. The number of jurors can not be diminished or a verdict authorized short of a unanimous concurrence of all the jurors. It follows that the act of 1853 "defining the jurisdiction and regulating the practice of probate courts." (51 v. 167) in so far as it provides for a jury of six only, and authorizes a conviction upon their finding is unconstitutional and void, *Work* v. *State*, 2 Ohio St. 296; and no power could be derived by the court from the common law because "our courts have no common law jurisdiction in criminal cases." *Soverign* v. *State*, 4 Ohio St. 489—492.

But the act of May 1, 1854, to "extend the jurisdiction of justices of the peace." etc., (52 v. 100) is not unconstitutional, although it makes no provision for the trial, by a jury of twelve men, of actions commenced in virtue of such extended jurisdiction. *Norton* v. *McLeary*, 8 Ohio St. 205. "It is true that the act may subject the defendant to a trial before a justice of the peace before he can obtain a trial by jury: still the right of trial by jury remains unimpaired and perfect. The mode of obtaining it may be more inconvenient than heretofore. But on this subject a discretion is given to the Legislature which must be so far abused as to be clearly violative of the substantial right, before this court can interfere to nullify legislative action." *Ib.* 20—Scott, J; see also *Reckner* v. *Warner*, 22 Ohio St. 275—McIlvaine, J.

The constitutional right of trial by jury is not infringed when the accused may have it or not, at his election. *Dillingham* v. *State*, 5 Ohio St. 280—283.

The provisions of the act of January 9, 1871 (68 v. 6), conferring jurisdiction upon courts of common pleas to appoint guardians of the property of persons incapable of taking care of and preserving their property by reason of intemperance and habitual drunkenness, are not in violation of the provisions of this section. *Hagany* v. *Cohnon*, 20 Ohio St. 82.

See Art I, § 10, Note 5; *Art I*, § 19, Note 7; *Art XIII*, § 5, Note 6; *Inwood* v. *State*, 42 Ohio St. 186.

SEC. 6. There shall be no slavery in this state, nor involuntary servitude, unless for the punishment of crime.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted.[1] No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.[2]

1. "Neither Christianity nor any other system of religion is a part of the law of this State. We sometimes hear it said that all religions are tolerated in Ohio; but the expression is not strictly accurate; much less accurate is it to say that one religion is a part of our law, and all others only tolerated. It is not by mere toleration that every individual here is protected in his belief or disbelief. He reposes not upon the leniency of government, or the liberality of any class or sect of men, but upon his natural, indefeasible rights of conscience, which, in the language of the Constitution, are beyond the control or interference of any human authority; We have no union of Church and State, nor has our government ever been vested with authority to enforce any religious observance simply because it is religious. Of course, it is no objection, but on the contrary, is a high recommendation to a legislative enactment, based upon justice or

public policy, that it is found to coincide with the precepts of a pure religion; But the fact is nevertheless true, that the power to make the law rests in the legislative control over things temporal, and not over things spiritual. Thus, the statute prohibiting common labor on the Sabbath (29 v, 161), could not stand for a moment as the law of this State, if its sole foundation was the Christian duty of keeping that day holy, and its sole motive to enforce the observance of that duty. For no power over things merely spiritual has ever been delegated to the government, while any preference of one religion over another, as the statute would give upon the above hypothesis, is directly prohibited by the Constitution. Acts evil in their nature, or dangerous to the public welfare, may be forbidden and punished, though sanctioned by one religion and prohibited by another; but this creates no preference whatever, for they would be equally forbidden and punished if all religions permitted them. Thus, no plea of his religion could shield a murderer, ravisher, or bigamist; for community would be at the mercy of superstition, if such crimes as these could be committed with impunity, because sanctioned by some religious delusion." *Bloom* v. *Richards*, 2 Ohio St. 387-390—Thurman, J.; *McGattrick* v. *Wason*, 4 Ohio St. 566.

The statute prohibiting common labor on the Sabbath is to be regarded as a mere municipal or police regulation, whose validity is neither strengthened nor weakened by the fact that the day of rest it enjoins is the Sabbath day. Wisdom requires that men should refrain from labor at least one day in seven, and the advantages of having the day of rest fixed, and so fixed as to happen at regularly recurring intervals, are too obvious to be overlooked. It was within the constitutional competency of the general assembly to require this cessation of labor, and to name the day of rest. It did so by the act referred to, and, in accordance with the feelings of a majority of the people, the Christian Sabbath was very properly selected. But, regarded merely as an exertion of legislative authority, the act would have had neither more nor less validity had any other day been adopted." *Id.* 391; *Sellers* v. *Dugan*, 18 Ohio 489-490—Avery, J.

2. "The system of public education in Ohio is the creature of the Constitution and statutory laws of the State. It is left to the discretion of the general assembly, in the exercise of the general legislative power conferred upon it (Art. II, § 1), to determine what law are 'suitable' to secure the organization and

management of the contemplated system of common schools, without express restriction, except that 'no religious or other sect or sects shall ever have any exclusive right to, or control of, any part of the school funds of this State.'" (Art. VI. § 2) *State v. McCann*, 21 Ohio St. 198-205—Day, J.

Under the Constitution and laws of the State, the right to classify the youth of the State for school purposes, on the basis of color, and to assign them to separate schools for education, both upon well recognized and legal principles and repeated adjudications, is too firmly established to be now judicially disturbed. *Ib.* 208; *State* v. *City of Cincinnati*, 19 Ohio, 178; *Van Camp* v. *Board of Education of Logan*, 9 Ohio St. 406.

The Constitution does not enjoin or require religious instruction or the reading of religious books, in the public schools of the State. *Board of Ed.* v. *Minor*, 23 Ohio St. 211.

The legislature having placed the management of the public schools under the exclusive control of directors, trustees and boards of education, the courts have no rightful authority to interfere by directing what instructions shall be given, or what books shall be read therein. *Ib.*

SEC. 8. The privilege of the writ of habeas corpus shall not be suspended, unless in cases of rebellion or invasion, the public safety require it.

"In what does the privilege of this great bulwark of personal liberty consist? The Constitution furnishes no answer, nor was it necessary that it should. If ages of uninterrupted use can give significance to language, the right of jury trial and the habeas corpus stand as representatives of ideas as certain and definite as any other in the whole range of legal learning. *Work* v. *State*, 2 Ohio St. 296-302—Ranney, J.

"The privilege of the habeas corpus is secured by our National and State Constitutions to every citizen. It can only be suspended, or withheld in cases of rebellion or invasion, when the public safety may require it. Subjectto that reserved right of the National or State governments, to be employed in the extreme cases named, each citizen is vested with this ancient and sacred shield of liberty. To the judicial department of the government is delegated the duty of enforcing applications for its invaluable benefits, when properly demanded. Our statute relating to the

subject gives to the judges of the courts, separately, at chambers, jurisdiction of the subject-matter in all cases, except when the person is convicted of a crime or offense, and stands committed for it; or where he is committed for treason or felony, the punishment whereof is capital, plainly expressed in the warrant of commitment. Not only is such jurisdiction given to the judges, but when the person who is unlawfully deprived of his liberty, makes his application to one of them, as provided in the law for the benefits of the writ, it is made the duty of such judge forthwith to issue it. The exempted cases of convicted persons who stand committed and of treason or felony, punishable capitally, are the only restrictions upon the power of a single judge. The common law courts are clothed with power adequate for those and for all other cases which may arise. In the exercise of this power by a single judge, or a court, every case of unlawful imprisonment may be reached and examined into. 'No matter where or how the chains of captivity were forged the power of the judiciary, in this State, is adequate to crumble them to the dust, if an individual is deprived of his liberty, contrary to the law of the land.'" *Ex parte Collier*, 6 Ohio St. 55-58, 59—Bowen, J.

If a court, having jurisdiction of an offense punishable by a valid and constitutional law, pronounces sentence, and the commitment under that sentence is returned on habeas corpus, the form of the indictment, or the want of proper allegations therein, cannot be inquired into, nor can the previous proceedings of the court be revised or reviewed; for this process cannot be converted into a writ of error. In such case the court, having jurisdiction over the offense, must itself pronounce the law of the case, and, until reversed by some competent tribunal, is conclusive on all other courts, and puts an end to all collateral inquiry on habeas corpus. Hence, it is that the statute itself, relating to this writ, except from those who are entitled to the benefit of it, all persons convicted of a crime or offense for which they stand committed, plainly and specifically expressed in the warrant of commitment." *Ex parte Shaw*, 7 Ohio St. 81; *ex parte Bushnell*; *ex parte Langston*, 9 Ohio St. 77-183—Swan, C. J.

Where the court erroneously refuses to grant an order of discharge, and instead thereof remands the prisoner to jail, and continues the cause, the order remanding the prisoner to jail so long as it remains unreversed, is a valid and legal authority to the sheriff for retaining the prisoner in custody, and the order can

not be reviewed and reversed, or the prisoner discharged, by a proceeding in habeas corpus before another tribunal. *Ex parte McGehan*, 22 Ohio St. 442.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

"Who is to decide whether the proof be evident, or the presumption great? Most undoubtedly the same authority which prescribes the amount of bail, and passes upon the sufficiency of the sureties; the judges of the court who exercise this same power in all analogous cases known to our laws. . . The appeal must be addressed to the discretion of the court; a sound legal discretion it is true, but one that can only be moulded into action by the evidence brought to bear upon the indictment." *State* v. *Summons*, 19 Ohio, 139, 140—Spalding, J.

SEC. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offenses,[1] no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury.[2] In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel;[3] to demand the nature and cause of the accusation against him,[4] and to have a copy thereof; to meet the witnesses face to face,[5] and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury[6] of the county or district in which the offense is alleged to have been committed;[7] nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offense.[8]

1. "By this section of the Consitution, a presentment or indictment of a grand jury is dispensed with 'in cases of petit larceny and other inferior offenses.' How such offenses should thereafter be prosecuted, depended entirely upon legislative discretion. It is very evident that petit larceny is simply named as one of a class of offenses; and equally so, that the class was intended to embrace all offenses for which a punishment less than imprisoment in the penitentiary is provided. This was a classification so long used in our laws, and so well understood, as to leave no doubt that it was the one intended to be adopted by the convention." *Dillingham* v. *State*, 5 Ohio St. 280, 282—Ranney, C. J.

"There are many offenses, made so by statute, though decidedly immoral and mischievous in their tendencies, that are not crimes, but at most only *quasi* criminal, and where the legislature may direct the mode of redress, untrammeled by this constitutional provision. Such are Sabbath-breaking, selling spirituous liquors on Sunday, and the disturbance of religious meetings, with many others. Of such, jurisdiction may be given to justices of the peace, or the mayor of an incorporated town. *Markle* v. *Town Council of Akron*, 14 Ohio, 586-589—Wood. C. J.

2. Where, on an indictment for grand larceny, presented against H. L., a person was arraigned, and pleaded in abatement that his name is not H. L., but W. H. L., and the plea was found to be true, and the name thus disclosed was entered on the minutes of the court, and the trial and further proceedings were had in pursuance of section 112 of the Code of Criminal Procedure of 1869: Held, that this section of the code is not in contravention of this section of the Constitution. *Lasure* v. *State*, 19 Ohio St. 43.

"An individual accused of a crime can not be compelled to answer the charge until the same has been made through the intervention, of a grand jury, in the form of an indictment or a presentment. Should the legislature pass an act to compel an individual to answer, without this prerequisite, such an act would be in violation of the Constitution, and void. But this clause in the Constitution has nothing to do with the particular forms of indictments. These forms will vary according to the nature of the criminal acts prohibited. The legislature have the power to declare what acts are criminal; and they have the same

power to prescribe the forms of indictments for the commission of such criminal acts. They cannot dispense with the indictment itself; but they can dispense with some of its technical formalities." *Lougee* v. *State*, 11 Ohio, 68-70—Hitchcock, J.: *Wolf* v. *State*, 19 Ohio St. 248-255; *Turpin* v. *State*, *Ib.*, 540-545.

3. The court, in the trial of a criminal case, has the power to limit the time to be occupied in the argument of the case to the jury. The exercise of the power should be reasonable, leaving full time for the fair discussion and presentation of the case. *Weaver* v. *State*, 24 Ohio St 584 "The court has no discretionary power over the *right* itself, for it cannot be denied. And hence, it has no right to prevent the accused from being heard by counsel, even if the evidence against him be clear, unimpeached, and conclusive in the opinion of the court. But the *exercise* of the right is subject to judicial control to the extent that is necessary to prevent the abuse of it" *Dille* v. *State*, 34 Ohio St. 617-620—Gilmore, C. J.

4. "The indictment, in the contemplation of the Constitution, is that written statemen of the nature and cause of the accusation, with all the certainty and substantial requirements heretofore sanctioned and declared essential by the settled law of the country. Why these provisions in the fundamental law of the State? Why the ceremony and expense of a grand jury to find and return an indictment setting out the 'nature and cause of the accusation'? and why guarantee to the accused the right to demand and have a copy of the indictment, if the written averments, descriptive of the crime, are not required to be made with certainty and truth, charging the overt act, with all the substantial and distinguishing ingredients which the statute creating the offense has made essential to constitute the crime? If any one or more of the substantial ingredients or distinguishing constituents of the crime may be omitted, the written accusation required would become a mere snare by which to mislead and entrap the accused on his trial. Where either purpose, intent or knowledge, is, by the statute, made a distinguishing characteristic of a crime, it is as essential that such purpose, intent, or knowledge should be averred in the description of the act charged as the crime as any other material and distinguishing ingredient." *Fouts* v. *State*, 8 Ohio St. 98-114, 115—Bartley, C. J.

The indictment or information must aver all the material facts which it is necessary to prove to produce a conviction, and

with such reasonable certainty as to advise the accused what he may be expected to meet on the trial. *Dillingham* v. *State*, 5 Ohio St. 280; *Lougee* v. *State*, 11 Ohio 68; *Lamberton* v. *State*, *Ib*., 282; *Anderson* v. *State*, 7 Ohio, 2 pt., 250 *Davis* v. *State*, 7 Ohio, 1 pt., 205: *Hess* v. *State*, 5 Ohio, 1-12; *Gatewood* v. *State*, 4 Ohio, 387; *Fouts* v. *State*, 8 Ohio St, 98-114.

It is sufficient, in an indictment for manslaughter, to charge the crime in accordance with section 92 of the Code of Criminal Procedure of 1869. That section is not repugnant to the Constitution. *Wolf* v. *State*, 19 Ohio St. 248.

The provision in section 96 of the Code of Criminal Procedure of 1869, which declares that it shall be sufficient in any indictment, where it is necessary to allege an intent to defraud, to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, is not in conflict with this provision. *Turpin* v. *State*, 19 Ohio St. 540.

5. "This, like numerous other provisions in the Bill of Rights, is a constitutional guaranty of one of the great fundamental principles well established and long recognized at common law, both in England and in th s country. The scope and operation of it are clearly defined and well understood, in the common law recognition of it; and the assertion of it in t e fundamental law of the State, was designed neither to enlarge nor curtail it in its operation, but to give it permanency and secure it against the power of change or innovation. The object of this provision manifestly, is to exclude testimony by depositions, by requiring t to be given orally, in the presence of the accused, on the trial. The admission of testimony by depositions against the accused in a criminal cause, would often afford the prosecutor great advantage over him, as well as furnish, at times, opportunities for abuses beyond the reach of detection by the defendant. Deprived of this right, the accused would often be without the opportunity of cross-examination, without the means of seeing, hea ing, or knowing the persons who testify against him, and without the advantage of an oral examina ion of the witnesses before the jury which s to decide upon his case. But important as this righ is, as established at common law and secured by the Constitution, it has application to the matter of the personal presence of the witnesses on the trial, and not to the subject-matter or competency of the testimony to be given. The requirement

that the accused shall be confronted, on his trial, by the witnesses against him, has sole reference to the personal presence of the witness, and it in no wise affects the question of the competency of the testimony to which he may depose. When the accused has been allowed to confront, or meet face to face, all the witnesses called to testify against him on the trial, the constitutional requirement has been complied with." *Summons* v. *State*, 5 Ohio St. 325-340—Bartley, C. J.

Testimony proving the statement made by a deceased wi ness on oath, at a former trial between the same parties, being one of the established exceptions to the rule that hearsay is incompetent as evidence, the admission of a witness to give evidence of this kind n a criminal case does not contravene this provision of the Constitution. (*Ib.*, 325.) So in regard to evidence of dying declarations, the objection to such evidence going to the competency of the evidence, and not to the compe ency of the witness. *Ib.*, 342; *Robbins* v. *State*, 8 Ohio St., 131; *Montgomery* v. *State*, 11 Ohio, 424; *Wagers* v. *Dickey*, 17 Ohio, 439.

6. "The right of the accused to an impartial jury can not be, abridged. To secure this right, it is necessary that the body of triers should be composed of men indifferent between the parties, and otherwise capable of disc arging their duties as jurors. Whether in the practical administration of justice the right is infringed, is, n cessarily, a judicial question; and whether, in a particular case, a proposed juror has the state of mind which will render him impartial, is a question of fact which it is the duty of the court trying the case to decide. This duty is enjoined by the Constitution, and, it is tru , can not be impaired or the right abridged by legislative act on. The previous demeanor of the juror, the information he may have received, or the opinions he may have entertained or expressed, are only evidence of the state of his mind, and are material only as they may tend to show a p e-judgment of the case, the existence of prejudice against either of the parties, or his indifference between them." *Cooper* v. *State*, 16 Ohio St., 328-331—White, J.; see *Martin* v. *State*, 16 Ohio, 364.

The constitutional right of trial by jury is not infringed, when the option is given to the accused to have the issue tried by the court or the jury, and he submits the cause to the court. *Dillingham* v. *State*, 5 Ohio St., 280. And section 42 of the "act defining the jurisdiction and regulating the practice of probate

courts," passed March 14, 1853 (51 v. 167), providing that "upon a plea other than a plea of guilty, if the defendant do not demand a trial by jury, the probate judge shall proceed to try the issue," is a valid and constitutional enactment. *Dailey* v. *State*, 4 Ohio St., 57.

The issue made by the plea of not guilty can not be tried by the court, without the waiver by the parties of a jury trial. *Slocum* v. *Lessee of Swan*, 4 Ohio St., 161.

But upon the trial of an issue raised by a plea of not guilty, in the higher grades of crime, it is not in the power of the accused to waive a trial by jury, and by consent, submit to have the facts found by the court, so as to authorize a legal judgment and sentence upon such finding. *Williams* v. *State*, 12 Ohio St., 622.

Section 8 of the act of April 16, 1857 (54 v. 163), "to authorize the establishment of houses of refuge," and the statut subsequently enacted enlarging the op ration of that act so as to authorize commitments to "The State Reform Farm" (55 v. 27), are not repugnant either to this section or to section 5 of this article, although they make no provision for a trial by jury. *Prescott* v. *State*, 19 Ohio St., 184.

In a summary proceeding before the probate court, under the act of February 26, 1843, (51 v. 354), on complaint of an administrator agains a party suspected of mbezzling, concealing, or conveying away the property or effects of the estate, the court has no constitutional power to render judgment against the party so charged, except for such property and effects as he, on his examination, admits himself guilty of having embezzled, concealed, or carried away; and to the ext nt that the statute professes to authorize a judgment in cases where there is a controversy between the parties, it is unconstitutional. *Howell* v. *Fry*, 19 Ohio St., 556.

An ordinance of an incorporated village provided that persons keeping billiard tables, to be used by others, should be imprisoned for a term not exceeding thirty days. *Held:* that although such an ordinance may have been authorized by section 35 of the Municipal Corporation Act, as amended April 5, 1856 (50 v. 223), yet no corresponding change in the powers and jurisdictions of mayors of incorporated villages, so far as to furnish the means of a trial by jury, having been made, a trial and sentence to imprisonment, by the mayor, of a person charged with a violation of the ordinance, are illegal. *Thomas* v. *Village of Ash-*

land, 12 Ohio St., 124. "It would be a grave question whether the legislature could create a new offense, to be punished by imprisonment, and provide that the trial for such offense should be before a single judge, without a jury." *Ib.*, 129—Gholson, J.

The act supplementary to an act directing the mode of trial in criminal cases, passed March 3, 1860 (57 v. 20), is not repugnant to this section. *Cooper* v. *State*, 16 Ohio St., 328.

See further as to trial by jury; Art. 1, § 5, and notes; Art. 1, § 19, Note 7; Art. XIII, § 5, Note 6.

7. In the case of *State* v. *Arrison*, which was an indictment for murder, referred to in 8 Ohio St., 124, an order was made by Parker, J., of the Hamilton County Common Pleas, changing the venue to the county of Butler; but the presiding judge (Clark, J.), after full argument, held that this could not be done, in view of this constitutional provision.

8. "The constitutional provision extends the common law maxim, which was limited to felonies, to all grades of offenses; and it is but the application to the administration of criminal justice of a more general maxim of jurisprudence, that no one shall be twice vexed for one and the same cause. On this maxim rests the whole doctrine of *res adjudicatæ*. The object of incorporating it into the fundamental law, was to render it, as respects criminal causes, inviolable by any department of the government." *State* v. *Behimer*, 20 Ohio St., 572-576—White, J.

"It is the right of the State, and one of the most solemn and responsible of its duties, to punish crime; and it is the absolute right of any one accused of crime to demand 'a speedy public trial by an impartial jury,' and a verdict declaring his guilt or innocence according to the due course of law. The one is indispensably necessary to the safety of the community and the preservation of peace and order and the other for the protection of the innocent, and to prevent the oppression, which might otherwise be practiced, by those having charge of State prosecutions. The problem has always been to preserve intact both of these important rights; and the object has been completely accomplished, by holding the accused liable to answer, until, in the regular course of judicial proceedings, the tribunal charged with the issue, without molestation or interference, has had the fullest and amplest opportunity to pass upon the question of his guilt; and by making every interference, on the part of the government, by which a verdict is prevented, while a reasonable

hope remains that one may be rendered, an absolute bar to his further prosecution. If a verdict cannot be obtained upon one trial, another may be lawfully had; and the unavoidable delay which ensues is the fault of no one. For the better protection of the accused, the law requires unanimity in the jury before a verdict can be rendered; but to allow, on the one hand, the ignorance, perversity, or even honest mistake of a single juror, to paralyze the administration of justice, and turn loose upon the community the most dangerous offenders, or, on the other, to allow the government to trifle with the constitutional safeguards of the accused, would equally subvert the foundation principles upon which the criminal code is administered." *Dobbins* v. *State*, 14 Ohio St., 493-501—Ranney, J.

When the defendant, in a criminal prosecution, is discharged under the 161st or 162d section of the criminal code, on the ground that he has not been brought to trial within the time therein limited, the order of discharge is to be regarded, not as a mere temporary release of the prisoner from confinement, but as a final judgment in the cause, and a bar to all subsequent prosecution for the same crime or offense. *Ex parte McGehan*, 22 Ohio St., 442.

A jury, charged with the trial of a capital case, after long deliberation unable to agree upon a verdict, may be discharged by the court, and the accused held to a further trial, without any infringement of this provision. The power to do so, against his consent, only exists in cases of absolute necessity, and when the jury have considered the cause for such a length of time, as to leave no reasonable expectation that they will be able to agree upon a verdict. *Dobbins* v. *State*, 14 Ohio St., 493; *Poage* v. *State*, 8 Ohio St., 229-239; *Hurley* v. *State*, 6 Ohio, 400.

But where a court, in a criminal case, after a jury have retired to consult on their verdict, discharges them without the assent of the prisoner, and without the existence of a cause for which they might lawfully be discharged, the prisoner can not be again tried for the same offense. *Poage* v. *State*, 8 Ohio St., 229.

"Though the existence of the power was once doubted, it is now well settled that the court has the power, at the instance of the defendant, after a verdict of conviction, to grant a new trial, without infringing this provision. The power has been uniformly exercised in this State, when, in the judgment of the court, a proper case arose." *State* v. *Behimer*, 20 Ohio St., 572-576—White, J.

Article five of the amendments of the Constitution of the United States does not operate as a limitation of the power of the State governments over their own citizens, but is exclusive y a restriction upon federal power. *Prescatt* v. *State*, 19 Ohio St., 184.

And see *Inwood* v. *State*, 42 Ohio St., 186; *Mitchell* v. *State*, 42 Ohio St., 383.

SEC. 11. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of the right;[1] and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

1. "The liberty of the press, properly understood, is not inconsistent with the protection due to private character. It has been well defined as consisting in the 'right to publish, with impunity, truth, with good motives, and for justifiable ends, whether it respects government, magistracy, or individuals.'" *Cincinnati Gazette Co.* v. *Timberlake*, 10 Ohio St., 548-555—Scott, J.

Whilst a full, impartial, and correct account of a trial in a court of justice, unaccompanied by defamatory comments, may, in general, be published with impunity, yet this privilege does not extend to the publication of preliminary proceedings merely, which are of a purely *ex parte* character, such as a statement, in detail, of the contents or substance of an affidavit, made before a police magistrate with a view to the arrest of a party thereby charged with crim . Such publication can be justified only by showing the truth of the charge. *Ib.*, 548; and see the same case on trial below reported in 1 Disney's Rep., 320.

"No man can be held responsible in a civil proceeding for publishing the truth; but he is responsible for publishing a falsehood, unless he shows a justification in the occasion or circumstances. To publish that which is false and injurious to another, must be deemed an abuse. So, if the first publication of false and injurious matter be an abuse of the right of speech, or of the liberty of the press, and a wrongful act, it can confer no right on

another to repeat or republish. This is also an abuse, for which the party repeating or republishing becomes responsible. And it is now well settled that this responsibility can not be escaped by giving the name of the author or first publisher. And no such doctrine has at any time obtained countenance in reference to a libel or written slander. To repeat what a man hears in conversation, is quite a different matter from writing it out and publishing it in a newspaper. Where such libel consists in publishing the fact of an accusation having been made against another, the defendant must show the accusation to be true." *Ib.*, 1 Disney's Rep., 320-322—Gholson, J.

SEC. 12. No person shall be transported out of the state, for any offense committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

No man's property can be forfeited as a punishment for crime. Hence, there is no power to deprive a man of the use of his property, unless it be necessary in order to abate an existing nuisance. *Miller* v. *State*, 3 Ohio St. 475.

SEC. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

SEC. 15. No person shall be imprisoned for debt[1] in any civil action, on mesne or final process, unless in cases of fraud.[2]

1. The provision in the Bastardy Act (29 v. 43), directing the putative father to be committed to jail in default of giving security to perform the order of the court charging him with the main-

tenance of his illegitimate child, is not in conflict with this section. The sum in which the defendant is charged with the maintenance of the child, is not in conflict with this section. The sum in which the defendant is charged with the maintenance of the child, is not a debt within the meaning of this provision of the Constitution. *Musser* v. *Stewart*, 21 Ohio St. 353; *Perkins* v. *Mobly*, 4 Ohio St. 668; *Hawes* v. *Cooksey*, 13 Ohio, 242-245.

The provision of the act of April 7, 1863 (60 v. 66, § 2), authorizing the arrest on execution of a party against whom a fine has been judged and his imprisonment until such fine be paid, or he be otherwise discharged according to law, is not unconstitutional. *In re Beall*, 26 Ohio St. 195.

2. This constitutional provision clearly contemplates legislation before any arrest could be made in civil actions, though fraud may have interrupted. Courts, therefore, whether of general or limited jurisdiction, have now no common law power to authorize arrests in such cases, and the power, if it exists at all, must have been conferred by express legislation." *Spice* v. *Steinruck*, 14, Ohio St. 213-218—Peck, C. J.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law; and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this state.

SEC. 18. No power of suspending laws shall ever be exercised, except by the general assembly.

The authority conferred upon commissioners of counties and trustees of townships to grant general and special permission for the animals named to run at large, as conferred by section 2 of the act of April 13, 1865 (62 v. 185), was within the scope of legislative power, and does not conflict with this section. *Fox* v. *Fox*, 24 Ohio St. 335.

SEC. 19. Private property shall ever be held inviolate,[1] but subservient to the public welfare.[2] When taken in time of war or other public exigency, imperatively re-

quiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public,[3] without charge, a compensation shall be made to the owner, in money, and in all other cases, where private property shall be taken for public use,[4] a compensation therefor shall first be made in money,[5] or first secured by a deposit of money,[6] and such compensation shall be assessed by a jury,[7] without deduction for benefits to any property of the owner.[8]

1. The statute for the relief of occupying claimants, passed March 10, 1831 (29 v. 261), requiring the value of the permanent improvements of the *bona fide* occupant, under color of title, to be paid as a condition precedent to the entry and possession of the owner, although an encroachment on the rights of private property as settled by the common law, rests upon a strong equity in favor of a compensation for improvements, which have augmented the value of the land, and inured to the benefit of the owner. *McCoy* v. *Grandy*, 3 Ohio St. 463.

The option which this law gives to the owner of the land, after a recovery in ejectment, either to take the land on paying for the improvements, or to take the amount of its value in money without the improvements, secures to the owner of the property in the land, and at the same time protects the occupying claimant in his equitable claim to a compensation for his improvements. *Ib.*

But the amendatory act of March 22, 1849, (47 v. 56), giving to the occupying claimant the option which the original act gave to the owner of the land, thus taking the property away from the owner after the solemn form of a recovery and judgment in ejectment, and transferring it to his unsuccessful adversary, who is ordered to be ejected as an intruder on the land, is a palpable invasion of the right of private property. *Ib.*

In case of a mortgage, a judgment lien, a levy under execution, assessment of a tax, or other incumbrance on land arising out of the owner's liabilities, it is not within the scope of the legislative power to take the fee in the land from the owner and transfer it absolutely to the person holding the claim, while the owner stands ready and insists on discharging the liability and saving his property. *Ib.*

The competency of the legislative power to transfer the property of one person to another, without the consent of the former, is not shown by any analogy either to proceedings in partition or the bar of the statute of limitations. In the case of the former, although the right of partition is an incident to the estate of tenancy in common, and the division the result of necessity, yet the owner is not divested of his property without the opportunity of saving it by a purchase; and in the case of the latter, the bar of the statute rests upon a rule of evidence raising a presumption that a title has passed, and upon this ground the aid of the judicial power is denied to one who has slept too long on his rights. *Ib.*

The occupying claimant law rests upon entirely different ground; and in securing to the occupant a compensation for his improvements, as a condition precedent to the restitution of the property to the owner, it goes to the utmost stretch of the legislative power touching the subject. And the amendatory act of 1849, providing for the transfer of the land to the occupying claimant without the consent of the owner, is in plain conflict with this provision, and is, therefore, unconstitutional and void. *Ib.*

"The plaintiff's affidavit in replevin of his property and right of possession, and the defendant's possession and claim of right to the same property make a case of disputed ownership to the chattel replevined. Our statute directs its seizure and delivery over to the plaintiff, if he will give bond with surety to pay to the defendant all damages; and if he do so, then the disputed right of the defendant to the chattel becomes a mere right in action to recover its value from the plaintiff and his sureties; but if the plaintiff fails to give bond, then the property is returned to the defendant, and the plaintiff's right to the chattel is changed into a mere right to recover its value, in that action, from the defendant. And to this there is no constitutional objection." *Smith* v. *McGregor*, 10 Ohio St. 461-474—Peck, J.

The provisions of the act of April 4, 1859 (v 56, 104), entitled "an act to provide for the sale or lease of estates entail in certain cases," and of the acts supplemental thereto, passed March 30, 1864, and April 13, 1865, are in conflict with this section, in so far as their operation would authorize the sale, without the consent of the owners, of vested estates in remainder or revision created before the the passage of the acts. *Gilpin* v. *Williams*, Ohio St. 283.

2. This clause clearly prohibits the taking of private property for private use, without the owner's consent. *Reeves* v. *Treas. Wood Co.*, 8 Ohio St. 333-345. Nor could it be so taken, were there no constitutional provision on the subject. *Shaver* v. *Starrett*, 4 Ohio St. 494-498—Thurman, C. J.

The power of eminent domain is not conferred either by this section or by the fifth section of Article XIII; they simply prescribe modes for, and limitations upon, its exercise. The power is an inseparable incident of sovereignty, and its exercise for the accomplishment of lawful objects is conferred upon the general assembly in the general grant of legislative authority (Art. II, § 1). *Giesy* v. *C. W. & Z. R. R. Co.* 4 Ohio St. 308.

It may be used to appropriate lands for a public highway of any kind, and this whether the road is built and owned by the public or by a corporation as a public instrumentality, provided it is kept open for public use as a matter of right, or, according to the nature of the work, the corporation is made a common carrier of goods or of passengers. *Ib.*

It may be exercised directly or indirectly by the general assembly, without the intervention of the judiciary, except for determining the amount of compensation. But the courts possess full power to determine its proper limits, and to prevent abuses in its exercise. *Ib.*

The power rests upon public necessity, and can only be exercised where such necessity exists. But this necessity relates rather to the nature of the property, and in the uses to which it is applied, than to the exigencies of the particular case; and it is no objection to the exercise of the power, that lands, equally feasible, could be obtained by purchase. *Ib.*

Only such interests as will answer the public wants can be taken; and it can be held only so long as it is used by the public, and can not be diverted to any other purpose. *Ib.*

Under the statute authorizing the appropriation of private property for a public wharf, by a municipal corporation, the discretion of determining the quantity of ground required for such purpose is vested in the corporation; and where, in making the appropriation, this discretion has been exercised by the municipal authorities in good faith, their action is final. *Iron R. R. Co.* v. *Ironton*, 19 Ohio St., 299.

Authority to lay down the necessary structure for a street railway, in a common highway or street, and to run cars thereon for the carriage of passengers for h re, may be lawfully granted to a

company incorporated for that purpose, when no private right of the adjoining lot owners is thereby impaired. *Street Railway Co.* v. *Cumminsville*, 14 Ohio St., 524.

The legislature may authorize the occupation of an easement originally acquired by grant or appropriation, in any manner calculated to further the general objects of the acquisition; but may not divert it to purposes which exclude the original uses, or lay additional burdens upon the land, or destroy or impair the incidental easements of adjoining lot-owners in the street or highway. This interest of adjoining lot-owners is properly protected by the Constitution, and subject to be taken or appropriated only upon the condition that compensation is made. *Ib*; *Hatch* v. *C. & I R. R. Co.* 18 Ohio St., 92.

A claimant for damages in the alteration of a road, is not entitled to recover where such alteration merely renders the road less convenient for travel, without directly impairing his access to the road from the improvements on his land. *Jackson* v. *Jackson*, 16 Ohio St., 163

It is well settled that an action lies as well for damage to adjoining property by stopping or impairing the travel on, to, or from a street or highway, as any other damage that can be done to property, although the property injured may not be touched by the obstruction. *L. M. R. R. Co.* v. *Naylor*, 2 Ohio St., 235.

The owners of unimproved lots can not recover damages from a municipal corporation for filling, ditching, or cutting down streets, being presumed to purchase with a view to a reasonable improvement of the streets. *Crawford* v. *Village of Delaware*, 7 Ohio St., 459.

The owners of lots upon a street, the grade of which has not been established, must use reasonable care and judgment in making improvements with a view to a reasonable and proper grade; and the town or city will not be responsible for injuries to such improvements by afterwards grading the street, if the grade by ordinary care could have been anticipated. *Ib*; *Cincinnati* v. *Penny*, 21 Ohio St., 499.

But if erections are made on a lot in accordance with an established grade, and the grade is afterward altered, and a substantial injury is thereby done to the owner of a lot, he is entitled to compensation. *Crawford* v. *Village of Delaware*, 7 Ohio St, 459; *Street Railway* v. *Cumminsville*, 14 Ohio St., 523; *Cincinnati* v. *Penny*, 21 Ohio St., 499

8. A township road in this State is a public highway, and subject to the uses of all having occasion to travel it, and may be highly necessary to enable the person or persons most immediately and directly interested in it, to discharge properly, and without trespassing on their neighbors' premises, many of the public duties enjoined upon them as citizens of the St te. In the establishment of such roads, therefore, by the exercise of the right of eminent domain, private property may be made subservient to the public welfare, on payment thereof in money. *Ferris* v. *Bramble*, 5 Ohio St. 109; *Shaver* v. *Starrett*, 4 Ohio St., 494.

The interest of the public in public roads, consisting of a perpetual easement in the land covered by them, for all the actual uses and purposes of public travel, may, at the discretion of the general assembly, be transferred, without any pecuniary equivalent, to a plank road company, such plank road still remaining a public highway, and subject to the same uses and purposes as before. In such case the company becomes the assignee of the public, and lawfully possessed of the same interest the public had. Such change of the mode of supp rting an existing highway can not be presumed to affect injuriously the rights of the proprietors of the land over which it passes, and if such injury is claimed to have resulted, it must be proved. *C. F. & C. P. R Co.* v. *Cane*, 2 Ohio St., 420.

A person whose land is taken by municipal authority to make or widen streets is entitled to compensation, in money, for the value of the land appropriated to such public use, to be ascertained by a jury. *Youngstown* v. *Moore*, 30 Ohio St., 133.

4. The act of May 1, 1862, entitled "An act to provide for locating, establishing and constructing ditches, drains and watercourses in townships" (59 v. 93), is not repugnant to the Constitution of the State in so far as its provisions relate to the taking of private property for township ditches whenever the public health, convenience or welfare demands it; nor in so far as its provisions relate to the mode of compensating the owner for property taken for the public use; not in so far as its provisions relate to the assessment of the costs of constructing the ditch upon lands benefited thereby. *Sessions* v. *Krunkilton*, 20 Ohio St., 349. But the act of May 1, 1854, "authorizing the trustees of townships to establish water-courses," etc., and the amendatory act of April 14, 1857, are in contravention of this section, in-

asmuch as they authorize an appropriation of private property without reference to the public welfare. *Reeves* v. *Treas. Wood Co.*, 8 Ohio St., 333.

The act of April 30, 1869, (66 v. 73), "authorizing the building and repairing of levees to protect lands from overflow," is in contravention of this section, inasmuch as under its provisions, private property may be appropriated without reference to the public welfare, and also, inasmuch as no provision is made therein for the assessment of compensation by a jury. *Smith* v. *A. & G. W. R. R. Co.*, 25 Ohio St. 91.

The use for which private property may be taken must be strictly public. A canal is such a public work that private property may be taken in constructing it. *Cooper* v. *Williams*, 4 Ohio 253-288; *Willyard* v. *Hamilton*, 7 Ohio, 2 pt., 111. And also in repairing it. *Bates* v. *Cooper*, 5 Ohio, 115-119. A toll-bridge, authorized by law, is also such a work. *Young* v. *Buckingham*, 5 Ohio, 485. So are public streets. *Hickox* v. *Cleveland*, 8 Ohio, 543. *Symonds* v. *Cincinnati*, 14 Ohio, 147; *Brown* v. *Cincinnati, Ib.*, 541. So are turnpikes. *Kemper* v. *C. C. & W. T. Co.*, 11 Ohio, 393. And railroads. *Moorehead* v. *Little Miami R. R. Co.*, 17 Ohio, 340. And township roads. *Ferris* v. *Bramble*, 5 Ohio St., 109; *Shaver* v. *Starrett*, 4 Ohio St., 494. And township ditches, drains and watercourses, when the public health, convenience or welfare demands them. *Sessions* v. *Crunklinton*, 20 Ohio St., 349; and see *Reeves* v. *Treas. Wood Co.*, 8 Ohio St., 333.

5. An assessment of damages in the "sum of one hundred and fifty dollars, with a wagon-way aud stop for cattle," as the damages sustained by the owner of land taken for the construction of a railroad, is not in conformity with this provision. *C, O. R. R. Co.* v. *Holler*, 7, Ohio St. 220.

No valid appropriation of property for public use can be made without a law providing compensation to the owner, to be assessed in the mode prescribed by the Constitution. The Constitution, in this particular, does not execute itself. *McArthur* v. *Kelly*, 5 Ohio, 140; *Foote* v. *Cincinnati*, 11 Ohio, 408; *Lamb* v. *Lane*, 4 Ohio St. 167; *Shaver* v. *Starrett, Ib.*, 494; *Watson's Ex'r* v. *Trustees of Pleasant Tp.*, 21 Ohio St. 667.

6. In case of the assessment of damages for laying out a road over the lands of any person, the damages or compensation for the land necessary to be taken must be paid or tendered in

money, or secured to be paid to the acceptance of the owner, before the opening of the road can be ordered. *Ferris* v. *Bramble*, 5 Ohio St. 109.

Under the act to provide for locating, establishing and constructing ditches, drains and water-courses (56 v. 58; 58 v. 49), personal notice to the owner of lands sought to be taken for the construction of a ditch is not indispensible in order to its condemnation and appropriation, notice by publication provided for therein being sufficient for that purpose. *Cupp* v. *Com. of Seneca Co.*, 19 Ohio St. 173.

A landowner failing to make application for compensation or damages within the time limited by the act, will be deemed and held to have waived his right to the same, although he had no actual notice of the proceeding; and the provision in said act to that effect is not in conflict with this section of the Constitution. *Ib.*

The proviso in section six of the act of January 27, 1853, "for the opening and regulating roads and highways," declares a rule of evidence whereby a waiver, on the part of the landowner, of his right to compensation, may be established, and does not conflict with this section of the Constitution. The rule contained in this proviso can not be regarded either as a statute of limitation, whereby a right secured by Constitution is barred immediately upon the accruing thereof, or is a statute declaring the forfeiture of private property. *Reckner* v. *Warner*, 22 Ohio St. 275.

7. This provision applies to all the cases mentioned in the section. *Lamb* v. *Lane*, 4 Ohio St. 167.

The word jury in this section, as well as in the other places in the Constitution where it occurs, means a tribunal of twelve men, presided over by a court, and hearing the allegations, evidence and arguments of the parties. And they may be sent to inspect the premises. *Ib*; *Work* v. *State*, 2 Ohio St. 307; *Shaver* v. *Starrett*, 4 Ohio St. 494.

An assessment may be made by viewers in the first instance, provided a right of appeal is given to a court in which they may be assessed by a constitutional jury. *Lamb* v. *Lane*, 4 Ohio St, 167; *In re Wells County Road*, 7 Ohio St. 16: *Reckner* v. *Warner*, 22 Ohio St. 275.

Under the Constitution of 1802, three disinterested freeholders of the county where the property is situated, appointed by a

judge of a court of record, was a competent tribunal to make the assessment. *Willyard* v. *Hamilton*, 7 Ohio, 2 pt,. 111; *Work* v. *State*, 2 Ohio St. 296-307; *Kramer* v. *C. & P. R. R. Co.*, 5 Ohio St. 140.

The owner of lands is entitled to a jury to assess damages sustained by the establishment of a county road. As to whether the Constitution operated upon cases pending before legislation, *quere In re Wells County Road*, 7 Ohio St. 16.

The act of January 27, 1853, entitled "An act for opening and regulating roads and highways" (51 v. 303), as amended April 8, 1856 (53 v. 119), is not repugnant to the provisions of the Constitution relating to trial by jury, as contained in sections five and nineteen of the first article The right of appeal therein provided for, to the probate court, where a constitutional jury may be had, validates the statute; and the provision therein for an appeal bond, with sureties, centinued for the payment of costs adjudged against the appellant, does not contravene the right of trial by jury, as guaranteed by the Constitution. *Reckner* v. *Warner*, 22 Ohio St. 275.

See further as to juries and the right thereto, Art. I, § 5, and Notes; Art. I, § 10, Note 5; Art. XIII, § 5, Note 6.

8. In proceedings for the appropriation of private property to public uses, arising under the Constitution of 1802, the construction put upon that instrument by the Supreme Court, that it allowed the benefit conferred to be deducted from the value of the property appropriated, and that it did not require the assessment to be made in a court, or by a jury, will be adhered to by the present Supreme Court. *Kramer* v. *C. & P. R. R. Co.*, 5 Ohio St. 140.

An assessment upon lands fronting on a street, to reimburse the amount of compensation paid the owner for his other land taken for the use of the street, is authorized by the statute (63 v. 133), and is not in violition of this constitutional provision. *Cleveland* v. *Wick*, 18 Ohio St. 303.

The provisions of this section and of section five of Article XIII—the one requiring compensation to be made without deduction for benefits, when property is appropriated to a public use, and the other providing for compensation irrespective of benefits, where it is taken by a corporation for a right of way—are, in legal effect, identical. When taken under either section, its fair maket value in cash, at the time it is taken, must be paid

to the owner; and the jury in assessing the amount, have no right to consider or make any use of the fact that it has been increased in value by the proposal or construction of the improvment. *Giesy* v. *C., W. & Z. R. R. Co.*, 4 Ohio St. 309; *Hendershot* v. *State*, 44 Ohio St. 208.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

This section imposes no restriction or limitation on the powers delegated. *State* v. *Covington*, 29 Ohio St. 102. But see 1 Ohio St. 77; 34 Ohio St. 260

ARTICLE II.

LEGISLATIVE.

"All of this article is devoted to the subject of legislative powers and duties. But it has respect to future legislative bodies, and future legislation under this Constitution, rather than to past, under the former Constitution. *Allbyer* v. *State*, 10 Ohio S. 588-590—Sutliff, J.

SECTION 1. The legislative power of this state[1] shall be vested in a general assembly,[2] which shall consist of a senate and house of representatives.

1. "The same provision, in very nearly the same words, is found in the former Constitution. It will be observed that the provision is not that the legislative power, as conferred in the Constitution, shall be vested in the general assembly, but that the legislative power of this state shall be vested. That includes all legislative power which the object and purpose of the State government may require, and we must look to other provisions of the Constitution to see how far, and to what extent, the legislative discretion is qualified or restricted. Hence, the difference between the Constitution of the United States and a State Constitution, such as ours. In the former, we look to see if a power is expressly given; in the later, to see if it is denied or limited. Therefore, when the power of the Assembly to enact any particular law is drawn into question, the proper inquiry is, whether

such an exercise of the legislative power is clearly prohibited by the Constitution. The grant of power being general, the question is as to the existence of a limitation arising from special prohibition." *Baker* v. *Cincinnati*, 11 Ohio St. 534-542—Gholson, J.; *Lehman* v. *McBride*, 15 Ohio St. 573-592; *Cincinnati* v. *McCann*, 21 Ohio St. 199-207. Such prohibition must either be found in express terms, or be clearly inferable, by necessary implication, from the language of the instrument, when fairly construed according to its manifest spirit and meaning. *Cass* v. *Dillon*, 2 Ohio St. 607; *Evans* v. *Dudley*, 1 Ohio St. 437; *Lehman* v. *McBride*, 15 Ohio St. 573-592. But the general assembly, like other departments of government, exercise only delegated authority; and any act passed by it not falling fairly within the scope of "legislative authority," is as clearly void as though expressly prohibited. *C., W. & Z. R. R.* v. *Com. Clinton Co.*, 1 Ohio St. 77.

The general grant of legislative power vested in the general assembly by this section includes the power to collect revenue for public purposes, and the limitations on the exercise of this power are to be found in other provisions of this instrument, and in the Constitution of the United States. *West. Union Tel. Co.* v. *Mayer*, 28 Ohio St. 521.

The power to authorize assessments, as distinguished from taxes proper, is comprehended in the general grant of legislative power to the general assembly. *Reeves* v. *Treas. of Wood Co.*, 8 Ohio St. 333.

The power to authorize assessments for the construction of free turnpike roads, and the opening of drains, as well as for the improvement of streets and sidewalks, exists to the same extent under the present Constitution as under that of 1802. *Ib.*

"The enactment of laws for the inspection of commodities is the exercise of a legislative power recognized and sanctioned by long and unquestioned usage here and elsewhere, and is included in the general grant of legislative power conferred by the Constitution upon the general assembly; and among the general, if not the invariable, incidents and characteristic features of this class of laws, is the imposition of a charge upon the owners or possessors of the commodities inspected, for the services of the inspector, although these services may have been rendered in *invitum* as to such owner or possessor. It is the legitimate exercise of governmental supervision over the business of the manufacturers and venders of certain commodities, in

order to protect the public, at home and abroad, against impositions and fraud, and incidentally, to protect manufacturers and venders themselves against unfounded and unjust claims of venders and consumers, as well as against the consequences of their own short-sighted cupidity." *Cincinnati Gas L. & C. Co.* v. *State*, 18 Ohio St. 237-244—Brinkerhoff, J.

The acts of March 28, 1864, April 6 1866, April 16, 1867, authorizing county commissioners, township trustees, and city councils to levy a tax for the payment of bounties to volunteers are authorized by the general grant of legislative power. *Cass Tp.* v. *Dillon*, 16 Ohio St. 38; *State* v. *Harris*, 17 Ohio St. 608; *State* v. *Wilkesville Tp.*, 20 Ohio St. 288; *State* v. *Richland Tp.*, *Ib.*; *State* v. *Circleville*, *Ib.*, 362.

The general assembly, under the general grant of legislative power contained in this section, may, by law, create a board of police commissioners for a city, to be appointed by the governor, and confer upon such board the power to appoint and control the policemen of such city: and it is no objection to such law that previous to the adoption of the Constitution the electors of the cities of the State had uniformly elected or appointed their own policemen, either directly or indirectly. *State* v. *Covington*, 29 Ohio St. 102.

2. The power of the general assembly to pass laws can not be delegated by them to any other body, or to the people. *C., W. & Z. R. R. Co.* v. *Com. of Clinton Co.*, 1 Ohio St. 77. But an act authorizing county commissioners to subscribe to the capital stock of a railroad company (enacted under the Constitution of 1802), does not delegate legislative power in providing that the subscription shall not be made until the assent of a majority o the electors of the county is first obtained at an election held for that purpose. *Ib.*

SEC. 2. Senators and representatives shall be elected biennially by the electors of the respective counties or districts, on the first Tuesday after the first Monday in November; their term of office shall commence on the first day of January next thereafter, and continue two years. [*As amended October 13, 1885*; 82 v. 446.]

SEC. 3. Senators and representatives shall have resided in their respective counties or districts, one year

next preceding their election, unless they shall have been absent on the public business of the United States or of this state.

SEC. 4. No person holding office under the authority of the United States, or any lucrative office under the authority of this state, shall be eligible to or have a seat in the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia.

SEC. 5. No person hereafter convicted of an embezzlement of the public funds shall hold any office in this state; nor shall any person holding public money for disbursement or otherwise, have a seat in the general assembly until he shall have accounted for and paid such money into the treasury.

SEC. 6. Each house shall be judge of the election, returns, and qualifications of its own members; a majority of all the members elected to each house shall be a quorum to do business; but a less number may adjourn from day to day, aud compel the attendance of absent members, in such manner and under such penalties as shall be prescribed by law.

SEC. 7. The mode of organizing the house of representatives, at the commencement of each regular session, shall be prescribed by law.

SEC. 8. Each house, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and with the concurrence of two-thirds expel a member, but not the second time for the same cause; and shall have all other powers necessary to provide for its safety, and the undisturbed transaction of its business.

SEC. 9. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the journal; and, on the passage of every bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed in either house without the concurrence of a majority of all the members elected thereto.

No bill can become a law without receiving the number of votes required by the Constitution; and if it were found by an inspection of the legislative journals that what purports to be a law upon the statute book, was not passed by the requisite number of votes, it might possibly be the duty of the courts to treat it as a nullity But it does not follow that an act that was passed by a constitutional majority is invalid, because, in its consideration, the assembly did not strictly observe the mode of procedure prescribed by the Constitution. There are provisions in that instrument that are directory in their character, the observance of which by the assembly is secured by their sense of duty and official oaths, and not by any supervisory power of the courts. *Fordyce* v. *Godman*, 20 Ohio St. 1-17; *Miller* v. *State*, 3 Ohio St. 475.

"The legislative journals furnish the appropriate evidence on the question whether a bill has been passed by the requisite number of votes. Were it otherwise, a bill might become a law without receiving the number of votes required by the Constitution. A single presiding officer might, by his signature, give the force of law to a bill which the journal of the body over which he presides, and which is kept under the supervision of the whole body, shows not to have been voted for by the constitutional number of members. The plain provisions of the Constitution are not to be thus nullified, and the evidence which it requires to be kept under the supervision of the collective body, must control when a question arises as to the due passage of a bill." *Fordyce* v. *Godman*, 20 Ohio St. 1-17—Scott, J.; and see *State* v. *Moffat*, 5 Ohio 358; 3 Ohio St. 475.

In the absence of all showing to the contrary, a law will be presumed to have been passed by the requisite number of votes. *Miller* v. *State*, 3 Ohio St. 475; *Steamboat Northern Indiana* v. *Milliken*, 7 Ohio St. 383.

SEC. 10. Any member of either house shall have the right to protest against any act or resolution thereof; and such protest, and the reasons therefor, shall, without alteration, commitment, or delay, be entered upon the journal.

SEC. 11. All vacancies which may happen in either house shall, for the unexpired term, be filled by election, as shall be directed by law.

SEC. 12. Senators and representatives, during the session of the general assembly, and in going to and returning from the same, shall be privileged from arrest in all cases except treason, felony, or breach of the peace; and for any speech or debate, in either house, they shall not be questioned elsewhere.

SEC. 13. The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that in which the two houses shall be in session.

SEC. 15. Bills may originate in either house; but may be altered, amended, or rejected in the other.

SEC. 16. Every bill shall be fully and distinctly read on three different days, unless, in case of urgency, three-fourths of the house in which it shall be pending, shall dispense with this rule.[1] No bill shall contain more than one subject, which shall be clearly expressed in its title,[2] and no law shall be revived or amended unless the new act contain the entire act revived, or the section or sections amended,[3] and the section or sections so amended shall be repealed.[4]

1. This section does not require that every amendment to a bill shall be read three times *Miller* v. *State*, 3 Ohio St. 475.

2. This provision was incorporated into the Constitution for the purpose of making it a permanent rule of the houses, and to operate only on bills in their progress through the general assembly. It is directory only, and the supervision of its observance must be left to the general assembly. *Pim* v. *Nicholson*, 6 Ohio St. 176. The same is equally true of the provision that "every bill shall be fully and distinctly read on three different days." *Miller* v. *State*, 3 Ohio St. 475–483.

The act of June 20, 1879, entitled "An act to revise and consolidate the general statutes of Ohio," is not void as being in conflict with the provision. *Oshe* v. *State*, 37 Ohio St. 494.

Every reasonable intendment is to be made in favor of the proceedings of the legislature. It is not to be presumed that the assembly, or either house of it, has violated the Constitution. When, therefore, it appears by the journals that a bill was amended by striking out all after the enacting clause and inserting a "new bill," so-called, it cannot be presumed that the matter inserted was upon a different subject from that stricken out; especially when the matter inserted is consistent with the title borne by the bill before such amendment. This is the more obvious since the Constitution provides that "no bill shall contain more than one subject, which shall be clearly expressed in its title." Nor does the fact that the inserted mateer is called a "new bill," prove that it was not an amendment. *Miller* v. *State*, 3 Ohio St. 475.

This provision is directory merely. But a bill for the regulation of health officers and other police officers of the city, contains but one subject within the meaning of this section. *State* v. *Covington*, 29 Ohio St. 102.

3. "This provision was inserted, mainly, to prevent improvident legislation; and with that view, as well as for the purpose of making all acts, when amended, intelligible, without an examination of the statute as it stood prior to the amendment, it requires every section, which is intended to supersede a former one, to be fully set out. No amendments are to be made by directing specified words or clauses to be stricken from or inserted in a section of a prior statute which may be referred to; but the new act must contain the section as amended—not the section or sections which it proposes to amend, but the section

or sections in full, as it purports to amend them. That is, it requires not a recital of the old section, but a full statement in terms of the new one. *Lehman* v. *McBride*, 15 Ohio St. 573-602, 603—Scott, J.

The act of February 21, 1867, (64 v. 18), authorizing building associations to become incorporated, as provided in certain sections of the "act to provide for the creation, and regulation of incorporated companies, passed May 1, 1852," has reference to the sections named which were then in force, and not to the original sections which had been repealed. *Forest City L. & B. Ass* v. *Gallagher*, 25 Ohio St. 208.

The sections of the act of 1852, are referred to as prescribing the course to be pursued by persons desiring to become incorporated for the purpose of availing themselves of the privileges of the act of February 21, 1867; and the last named act is not an amendment of such section within the meaning of this section of the Constitution. *Ib.*

A statute does not conflict with this section which is not an amendment of a particular statute, but is itself a distinct and independent statute, and is an amendment only as being an amendment of the law generally. *Rairden* v. *Holden*, 15 Ohio St. 207, 209.

4. This clause is directory only to the general assembly, and was not intended to abrogate the long established rule as to repeals by implication. *Lehman* v. *McBride*, 15 Ohio St. 573.

The rule, that repeals by implication are not favored, is applicable to the inquiry whether any particular enactment ceased to be in force on account of repugnancy to the new Constitution. *State* v. *Dudley*, 1 Ohio St. 437, approved; *Cass* v. *Dillon*, 2 Ohio St. 607.

SEC. 17. The presiding officer of each house shall sign publicly, in the presence of the house over which he presides, while the same is in session, and capable of transacting business, all bills and joint resolutions passed by the general assembly.

SEC. 18. The style of the laws of this state shall be, "*Be it enacted by the General Assembly of the State of Ohio.*"

SEC. 19. No senator or representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this state which shall be created or the emoluments of which shall have been increased during the term for which he shall have been elected.

SEC. 20. The general assembly in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers;[1] but no change therein shall affect the salary[2] of any officer during his existing term, unless the office be abolished.

1. The act of May 1, 1862, (59 v. 104), prescribing the fees of county auditors, "is not in conflict with this section nor with section twenty-six of this article." *Cricket* v. *State*, 13 Ohio St., 9.

"The duty enjoined by this section in regard to fixing the compensation of officers, does not require the general assembly to fix the sum or amount which each officer is to receive, but only requires that it shall prescribe or fix the rule by which such compensation is to be determined." *Ib.*, 21—White, J.

The act of May 4, 1869, (66 v. 80), authorizing the courts to appoint trustees to carry out the provisions of the act and to fix their compensation, is not in conflict with this provision. The trustees, for whose appointment it provides, are not public officers within the meaning of this provision. *Walker* v. *Cincinnati*, 21 Ohio St., 14.

"This clause can not be regarded as comprehending more than such officers as may be created to aid in the permanent administration of the governmen . It cannot include all the agencies which the general assembly may authorize municipal and other corporations to employ for local and temporary purposes." *Ib.*, 51—Scott, C. J.

The case of a clerk of the court holding his office by appointment to fill a vacancy, is one of the cases in which the Constitution has not fixed the term of office, but left that to be done by the legislature. *State* v. *Neibling*, 6 Ohio St., 40-43—Bartley, C. J.

This section imposes no restraint on the power of the general assembly to extend the tenure of an officer beyond his term, and until his successor is qualified, in a case where the duration of such tenure is not limited by the Constitution. *State* v. *Howe*, 25 Ohio St., 88.

2. It is manifest from the change of expression in the two clauses of the section, that the word "salary" was not used in a general sense, embracing any compensation fixed for an officer, but in its limited sense, of any annual or periodical payment for services—a payment dependent on the time, and not on the amount of the services rendered. Where the compensation is to be ascertained by a percentage on the amount of money received and disbursed, it is not a salary within the meaning of this section. *Thompson* v. *Phillips*, 12 Ohio St., 617, 618.

SEC. 21. The general assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted.

A specific mode of contesting elections in this state having been provided by statute, according to this requirement of the Constitution, that mode alone can be resorted to, in exclusion of the common law mode of inquiry by proceedings in *quo warranto*. The statute which gives this special remedy and prescribes the mode of its exercise binds the state, as well as individuals. *State* v. *Marlow*, 15 Ohio St., 114.

SEC. 22. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.

No officer of the state can enter into any contract, except in cases specified in the Constitution, whereby the general assembly will, two years after, be bound to make appropriations, either for a particular object or a fixed amount; the power and the discretion, intact, to make appropriations in general, devolving on each biennial general assembly, and for the period of two years. *State* v. *Medbery*, 7 Ohio St., 522.

"The sole power of making appropriations of the public revenue is vested in the general assembly. It is the setting apart and appropriating by law a specified amount of the revenue for the payment of the liabilities which may accrue or have accrued. No claim against the state can be paid, no matter how just or how long it may have remained overdue, unless there has been a specific appropriation made by law to meet it. By virtue of this power of appropriation the general assembly exercise their discretion in determining, not only what claims against, or debts

of the state shall be paid, but the amount of expenses which may be incurred. If they authorize expenses or debts to be incurred, without an appropriation to pay them, and the expenses are incurred, those expenses create a debt against the state, and it must remain such until payment under an appropriation afterward made. The general assembly usually, however, provide for the current expenses for a period not exceeding two years, out of the incoming revenues, by making appropriations of a sufficient amount of money to pay the expenses during that period, and provide by law for the raising of revenue sufficient to meet the appropriations. The discretion of each general assembly for the period of two years in respect to the amount of expenditures, except in some special cases, relating to salaries, is without limit and without control; but each must provide revenue, and set apart a sufficient amount by a law operative within the same two years, to pay all expenses and claims. *Ib.*, 528, 529—Swan, J.

Neither branch of the general assembly can alone appropriate money from the treasury; but may disburse a fund provided *by law* for contingent expenses of such branch. *State* v. *Oglevee*, 36 Ohio St., 324.

SEC. 23 The house of representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators.

SEC. 24. The governor, judges, and all state officers may be impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office, under the authority of this state. The party impeached, whether convicted or not, shall be liable to indictment, trial and judgment, according to law.

SEC. 25. All regular sessions of the general assem-

bly shall commence on the first Monday of January biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two. (See Const. 1802, Art. I, § 25)

SEC. 26. All laws, of a general nature, shall have a uniform operation throughout the state;[1] nor shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the general assembly, except as otherwise provided in this constitution.[2]

1. "Under the former Constitution, laws having a general subject-matter, and therefore, 'of a general nature,' were frequently limited expressly in their operation, to one or more counties, to the exclusion of other portions of the state. As a consequence, on the same subject, there might be one law for Hamilton county, another for Franklin, and still a third for Ashtabula. This naturally led to improvident legislation, enacted by the votes of legislators who were indifferent in the premises because their own immediate constituents were not to be affected by it. To arrest and for the future prevent this evil, this provision was inserted in the present constitution." *Lehman* v. *McBride*, 15 Ohio St, 573-605—Scott, J.

The act of March 7, 1835 (vol. 33, L. L., 349), to amend the act entitled "An act for the more effectual punishment of certain offenses in the county of Hamilton," is not so in conflict with this section as to be thereby abrogated. This section had, at the adoption of the Constitution, only a prospective, and not a retrospective, effect upon legislation. *Allbyer* v. *State*, 10 Ohio St., 588.

The act of May 1, 1862, (50 v. 101), "prescribing the fees of county auditors," is not in conflict with this section. *Cricket* v. *State*, 18 Ohio St, 9. This section clearly was not intended to require that an act providing a new rule of compensation of officers subsequently coming into office should be invalid, unless it also applied to the future services of existing officers. *Ib.*, 22.

The act of April 6, 1870 (67 v. 36), "limiting the compensation of certain officers therein named," and the supplemental act of April 12, 1871 (68 v. 58), and which can only operate in Hamilton county, are not laws of a general nature but of a local nature, and are therefore not in conflict with this section. *State* v. *Judges*, 21 Ohio St., 1.

An act of the general assembly that operates only upon all cities in the state of the first class having, at the last federal

census, less than one hundred thousand inhabitants, does not contravene this section. *Welker* v. *Potter*, 18 Ohio St., 85

The act of the general assembly of April 9, 1856, "to restore to the court of common pleas the jurisdiction of minor offenses in certain counties in the state" (53 v. 107), being general in its nature, and yet limited in express terms to a part of the counties of the state, is in conflict with this provision. *Kelly* v. *State*, 9 Ohio St., 239. The courts of common pleas in Ohio being an organization of a general nature, and having by law jurisdiction over every citizen, the laws which relate to and regulate their jurisdiction and organization are laws of a general nature, and are imperatively required to have a uniform operation throughout the state. *Ib.*, 272. (*See Art. IV. § 8, Note.*)

The act of May 7, 1877 (74 v. 218), regulating the selection of jurors for the county of Cuyahoga, is not a law of general nature within the meaning of this section. *McGill* v. *State*, 34 Ohio St. 228.

This section does not inhibit the passage of appropriate local laws. *State* v. *Covington*, 29 Ohio St. 102. And see *State* v. *Commissioners of Franklin Co.*, 35 Ohio St. 458.

The authority conferred upon commissioners of counties and trustees of townships to grant general and special permission for the animals named to run at large as conferred by section 2 of the act of April 13, 1865 (62 v. 185), was within the scope of legislative power, and does not conflict with this section. *Fon* v. *Fox*, 24 Ohio St. 335.

The clause of this section that "all laws of a general nature shall have a uniform operation throughout the state," is not directory, but mandatory, and a statute in violation of it is void. *Ex parte*, *Folk*, 42 Ohio St. 638.

2. In *C. W. & Z. R. R. Co.* v. *Com. of Clinton Co.*, 1 Ohio St. 77-87, 88, 89, Ranney, J., says that no one denies the proposition that the general assembly can not surrender any portion of the legislative authority with which it is invested, or authorize its exercise by any other person or body; that this inability arises no less from the general principle applicable to every delegated power requiring knowledge, discretion, and rectitude in its exercise, than from the positive provisions of the Constitution itself; that in determining whether a legislative act contravenes this clause or not, the true distinction is between the delegation of the power to make the law, which necessarily involves a discre-

tion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law; that the first cannot be done; that to the latter no valid objection can be made. In this case it was accordingly held that an act authorizing the commissioners of a county to subscribe to the capital stock of a railroad company does not delegate legislative power or contravene the Constitution of 1802 (under which it was passed), nor the present Constitution, in providing that the subscription shall not be made until the assent of a majority of the electors of the county is first obtained at an election held for that purpose.

The principle in such case is, that the act takes effect as soon as passed, and that, therefore, this provision of the Constitution does not apply, though the act provides for a vote of the people, as a condition precedent to the subscription. *Cass* v. *Dillon*, 2 Ohio St. 607; *Thompson* v. *Kelley*, *Ib.*, 647. The same rule is applicable to township subscriptions to the capital stock of railroad companies. *S. & I. R. R. Co.* v. *North Tp.*, 1 Ohio St. 105. Or of plank road companies. *Loomis* v. *Spencer*, *Ib.*, 153. And to an act providing for a vote upon the question of the removal of a county-seat, as required by Art. II, Sec. 30, in which act are contained certain sections, authorizing the election, prescribing the manner of conducting it and of making the returns, recording the results, etc. *State* v. *Com. of Perry Co.*, 5 Ohio St. 497; *Noble* v. *Com. of Noble Co.*, *Ib.*, 524. And to a statute which requires a preliminary vote of the electors of township, before an assessment for the purpose of paying for lands purchased for a township cemetery is made by the trustees. *Paris Tp.* v. *Cherry*, 8 Ohio St. 564.

The second section of the act of April 9, 1874, which provides that the first section thereof "shall take effect and be in force when and as soon as the same shall be adopted by a majority of all the electors," . . . "and when suitable county buildings shall have been erected," by the citizens of Youngstown, is not to be construed as making the act "to take effect upon the approval of any other authority than the general assembly," contrary to this section; the proper construction of said section of the act is, that the first section thereof shall become a law when adopted by the electors, and be enforced or carried into execution when the buildings shall have been erected. *Newton* v. *Mahoning Co.* 26 Ohio St. 618.

SEC. 27. The election and appointment of all officers[1], and the filling of all vacancies not otherwise provided for by this constitution, or the constitution of the United States shall be made in such manner as may be directed by law,[2] but no appointing power[3] shall be exercised by the general assembly, except as prescribed in this constitution, and in the election of United States senators; and in these cases the vote shall be taken "*viva voce.*"

1. Emolument is a usual but not a necessary element to constitute an office. Authority and power relating to the public interests, conferred by statute, and which may be vested in a board or individuals by election or the appointing power of the state, create an office. *State* v. *Kennon*, 7 Ohio St. 547.

The election and the appointment of an officer as authorized by this section are different and distinct modes of filling an office. *State* v. *Constantine*, 42 Ohio St. 437.

The general assembly, under this section, may direct, by law, the manner in which any officer, not otherwise provided for by the state or national Constitution, shall be elected or appointed; whether such officer shall be elected or appointed is left to the discretion of the general assembly. *State* v. *Covington*, 29 Ohio St. 102.

2. The general assembly may by law direct the manner in which all offices existing or created by law or vacancies therein shall be filled by appointment, except in cases provided by the Constitution. Directing by law the manner in which an appointment shall be made, and making an appointment, are the exercise of two different and distinct powers; the one prescribing how the act shall be done being legislative; and the other doing the act; being administrative. *Ib.*, 546.

3. The phrase "appointing power," as here used, is one of no ambiguous signification, When employed in reference to matters pertaining to government, or to the distribution of the powers of government, it means the power of appointment to office—the power to select and indicate by name individuals to hold office, and to discharge the duties and exercise the powers of officers. There is a public duty, charge, and trust conferred by public authority, for public purposes of a very weighty and

important character. Their duties, their charge and trust, are not transient, occasional or incidental, but durable, permanent and continuous. *Ib.*, 556—Brinkerhoff, J.

The statutes of April 12, 1858 (55 v. 122, 136), which provide for the creation of a board, authorizing it to appoint commissioners of the state house, and the directors of the penitentiary of the state, and to fill all vacancies which might occur in the office of directors of state house commissioners, and authorizing such board or a majority to remove any director of the penitentiary for cause specified, or which might by the board be deemed sufficient, created offices, and conceding that the general assembly could provide for the creation of such board and offices, yet the general assembly could not exercise the power of appointing the officers of such board without exercising "appointing power," which is forbidden by the Constitution. The exercise of the power of appointment and removal of state officers, and the filling of vacancies which may occur in state offices, is a high public function and trust, and not a private, or casual, or incidental agency; and the officers of a board so created by statute to exercise these public functions, are vested with official state power, and hold and exercise a public franchise and office. *Ib* 547.

The conferring of authority on the judges of the superior court of Cincinnati to appoint trustees to carry out the purpose of the act of May 4, 1869 (66 v. 80), the construction of a railroad by that city, is not the exercise of appointing power by the general assembly, which this section forbids. It is not the creating of a new office, but the annexing of a new duty to an existing office. *Walker* v. *Cincinnati*, 21 Ohio St. 15. (*See Art. VII, § 2, Note.*)

SEC. 28. The general assembly shall have no power to pass retroactive laws,[1] or laws impairing the obligation of contracts;[2] but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable,[3] the manifest intention[4] of parties and officers,[5] by curing omissions, defects and errors in instruments and proceedings arising out of their want of conformity with the laws of this state.[6]

1. "The words 'retrospective' and 'retroactive,' as applied to laws, seems to be synonymous. Justice Story thus defines a

restrospective law: 'Upon principle, every statute which takes away or impairs vested rights, acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past, must be deemed retrospective.'" *Rairden* v. *Holden*, 15 Ohio, St. 207-210—Brinkerhoff, C. J.

A statute purely remedial in its operation on pre-existing rights, obligations, duties and interests, is not within the mischiefs against which this clause of the Constitution was intended to guard, and is not, therefore, within a just construction of its terms. *Green Tp.* v. *Campbell*, 16 Ohio St. 11; *Rairden* v. *Holden*, 15 Ohio St. 207; *Goshorn* v. *Purcell*, 11 Ohio St. 641; *Butler* v. *Toledo*, 5 Ohio St. 225; *Acheson* v. *Miller*, 2 Ohio St. 203; *Trustees of C. F. R. E. A.* v. *McCaughy*, *Ib.* 152; *Kearney* v. *Buttles*, 1 Ohio St. 362; *Bartholomew* v. *Bentley*, *Ib.*, 37; *Lewis* v. *McElvain*, 16 Ohio, 347; *Johnson* v. *Bentley*, *Ib.*, 97; *Towsey* v. *Avery*, 11 Ohio, 90; *Hays Armstrong*, 7 Ohio, 1 pt., 248.

Statutes affecting the competency of witnesses are remedial only, and their application to cases pending at the time the acts take effect, is not inhibited by this section. *Westerman* v. *O'Neal* 25 Ohio St. 500; *John* v. *Bridgman*, 27 Ohio St. 22.

Statutes affecting substantial interests, and rights of property, have a prospective operation only, unless the contrary intention is clearly expressed. *Kelly* v. *Kelso*, 5 Ohio St. 198.

The acts of March 28, 1864 (61 v. 74), April 6, 1866 (63 v. 188), and April 16, 1867 (64 v. 231) providing for the payment of bounties to volunteers, have been declared not repugnant of this provision. *State* v. *Richland Tp.*, 20 Ohio St. 362; *State* v. *Wilkesville Tp*, *Ib.*, 288; *State* v. *Harris*, 17 Ohio St. 608; *Cass Tp.* v. *Dillon*, 16 Ohio St. 39.

Nor is the act of March 24, 1864, (61 v. 57), "supplementary to the act entitled 'An act to provide for the locating, establishing, and constructing ditches, drains and water-courses.'" *Miller* v. *Graham*, 17 Ohio St. 1. Nor the act of April 7, 1854 (52 v. 24), concerning suits on the bond of executors and administrators. *Rairden* v. *Holden*, 15 Ohio St. 207.

The power vested in the general assembly under article 13, section 6, of the Constitution, to restrict the powers of taxation and assessment by municipal corporations, is subject to the limitations imposed by this provision, and the provision that the general assembly shall pass "no laws impairing the obligation of contracts." *Goodale* v. *Fennel*, 27 Ohio St. 426

Under the act of April 16, 1852 (50 v. 168), where the parties intending to execute a sale of school land made a mutual mistake, whereby the purchaser obtained a deed for the land on the payment of a less sum than was due, an act authorizing the county auditor to bring suit in his own name upon such cause of action is not a retroactive law within the meaning of this section. *Seeley* v. *Thomas*, 31 Ohio St. 301.

Section 17, as amended March 7, 1873, (70 v. 53), of the act establishing boards of county commissioners and prescribing their duties (51 v. 422), in authorizing the commissioners of a county to maintain the action therein provided for, to effect the removal of obstructions from a public highway, existing at the time of its passage, is not in conflict with this section. *L. M. R. Co.* v. *Greene Co.*, 31 Ohio St. 338.

The legislature can not create a liability for acts as to which there was no liability when they were committed, but where a remedy exists, the legislature may change it, as well to acts theretofore as to those thereafter done. *Lawrence R. Co.* v. *Comm'r's Mahoning Co.*, 35 Ohio St. 1.

The power of the legislature to pass curative statutes, retrospective in their nature, which do not impair contracts, nor disturb vested rights, is not inhibited by this section. *Burgeit* v. *Norris*, 25 Ohio St. 308.

2. The fifth section of the act of March 2, 1853 (51 v. 529), to "provide for the removal of the county seat of Perry county from the town of New Lexington to the town of Somerset," imposes upon the county of Perry a forfeiture of subsisting rights acquired under a legal contract, in the event of a majority vote against the removal of the seat of justice, and is, therefore, unconstitutional. *State* v. *Com. of Perry Co.*, 5 Ohio St. 497.

By the sixth section of the act of April 29, 1854 (52 v. 177), to "provide for the permanent location of the seat of Justice of Noble County, by the legal voters thereof, and for the erection of public buildings therein," provides only for the natural and necessary exigencies arising from fixing the county seat either at Olive or Sarahsville; and which exigencies must have been in the contemplation of the voters, whether provided for in the act or not. This act is not in conflict with this section of the Constitution. *Noble* v. *Com. of Noble Co.*, 5 Ohio St. 524.

The act of May 3, 1852 (50 v. 263), in relation to plankroad and turnpike companies, in so far as it undertakes to impose upon

stockholders, without their assent, individual liabilities not imposed by their charters, or by the laws under which they have been organized is a law impairing the validity of the stockholders' contract with the company, and, therefore, unconstitutional. *Ireland* v. *Palestine T. P. Co.*, 19 Ohio St. 369.

The application of the provisions of so much of the act of April 18, 1870, amending section 557 of the code of civil procedure, as authorize the court to order a recission of the contract, or to render judgment for plaintiff only upon his giving a bond of indemnity, to causes of action which accrued before the passage of that act, is inhibited by this provision. *Great West Stock Co.* v. *Sass*. 24 Ohio St. 542. But the other provisions of that amended section 557 are remedial only, and do not contravene this section. *Templeton* v. *Kraner*, 24 Ohio St. 554.

See also, as to the obligation of contracts, *Phillips* v. *Dugan*, 21 Ohio St. 466; *Smith* v. *McKinney*, 22 Ohio St. 200. As to the powers of the general assembly to alter, revise, and amend the charters of incorporated companies, see *Const.* 1802, *Art VIII*, § 16. *Notes*.

See Art. I, § 19, Note (1).

3. This provision is permissive and not mandatory, and it still remains a question for the courts to determine under what circumstances, on what principle of equity, they will give effect to an instrument or conveyance which is invalid by law. *Hout* v. *Hout*, 20 Ohio St. 119.

4. "The intention must be manifest; but how manifested is not expressed. The courts under a direction to find the intention with a view to the correction of an omission or defect, in analogy to like cases, would not act unless the intention was manifest; and in view of this principle of law, it is probable the expression was used. It may happen that a mere inspection of the imperfect instrument will show what is the omission, defect or error, and make manifest the intention of the parties. But giving the strictest meaning to the expression, 'manifest intention,' as applied to a written instrument we think the courts are not confined to a mere inspection of the instrument, as to which the omission, defect or error is alleged to exist, but are, at least entitled to be placed in the same position as if called on to construe and give effect to a perfect instrument. The object being to ascertain if there be an omission, defect or error in the instrument,

which has prevented the manifest intention of the parties from being carried into effect, the court may look to the subject-matter the connection of the parties with it, and surrounding circumstances at the time of the execution of the instrument." *Goshorn* v. *Purcell*, 11 Ohio St. 641-647, 648—Gholson, J.

5. "The language of this proviso extends not only to omissions of officers in proceedings connected with the execution of deeds, but to omissions, defects and errors in deeds—to the omissions, not only of officers but of parties. We should therefore, look rather to the principle of justice and right, which the rule was intended to enforce by an application to past transactions, than to particular instances in which a like application had been made, though historically connected with the adoption of the rule." *Ib.*, 650.

6. "It is obvious that the instrument or proceeding must be one which, had there been no omission, defect or error, would have carried into effect the intention of the parties or officers. If the instrument or proceedings be such that, in the absence of any omission defect or error, it would have been inoperative, then it can not be regarded as within the meaning of the proviso. This is shown from the requisition that the omission, defect or error must arise from the want of conformity of the instrument or proceeding with the laws of the state. An instrument or proceeding which, having no omission, defect or error, would still not conform with the laws of the state, and, therefore, not carry into effect the intention, can not be one of those intended. The proviso proceeds on the assumption that the instrument or proceeding, but for the omission, defect or error, would have conformed to the laws, and therefore have carried into effect the intention of the parties. It, therefore, does not extend to any instrument or proceeding not authorized by the laws of the state, as a valid and effectual expression of the intention of the parties. It does not authorize the general assembly to give power or capacity to parties, not possessed when any instrument or proceeding was made or had. An attempt to do this would come within the prohibition against retroactive laws." *Ib.*, 646, 647.

"The principle, in view of which the language of the proviso should be construed, would extend that language to cases where parties, competent to carry their intention into effect, by an instrument or proceeding made or had in conformity with the laws of the state, attempt to do so, but fail on account of an omission,

defect or error; and the intention being manifest, justice and equity require that it should not be defeated by such omission, defect or error. The parties must be competent, their intention must be manifest, it must be evinced by some act, by some instrument or proceeding, though imperfect from want of conformity with the law, and the relief must be upon just and equitable terms." *Ib.*, 650.

In 1828, L., the wife of G., having a fee simple estate in land joined with her husband in a deed intending to convey her estate to F. By mistake her name was omitted in the granting clause of the deed. In 1857 the general assembly passed an act authorizing the court to correct such a mistake in the deed of a married woman, though occurring before the passage of the act: Held, that the proviso in this section authorized such an enactment. *Goshorn* v. *Purcell*, 11 Ohio St. 641; s. c. 2 Disney's Rep., 90; *Miller* v, *Hine*, 13 Ohio St. 565; *Smith* v. *Turpin*, 20 Ohio St. 478.

SEC. 29. No extra compensation shall be made to any officer, public agent, or contractor after the service shall have been rendered or the contract entered into; nor shall any money be paid, on any claim, the subject matter of which shall not have been provided for by pre-existing law, unless such compensation or claim be allowed by two-thirds of the members elected to each branch of the general assembly.

At the time of the raid through Ohio by the confederate forces, led by John M. Morgan, in 1863, and their destruction of private property, there was no subsisting law requiring or authorizing the payment of the state damages thereby occasioned to individuals; and therefore, under the provisions of this section, claims for such damages can not be paid out of the state treasury till allowed by the concurrent votes of two-thirds of the members elected to each branch of the general assembly. Upon the question whether such claims have been allowed by the number of members required by the Constitution, the legislative journals must furnish the appropriate evidence. *Fordyce* v. *Godman*, 20 Ohio St. 1.

A single branch of the general assembly can not, by resolution, allow compensation for extra services performed by its sergeant-at-arms, such compensation being inhibited by this sec-

tion, unless the services were provided for by pre-existing law, or the allowance be ratified by two-thirds of the members elected to each branch of the general assembly. *State* v. *Williams*, 34 Ohio St. 218; *State ex rel.* v. *Oglevee*, 37 Ohio St. 1.

SEC. 30. No new county shall contain less than four hundred square miles of territory, nor shall any county be reduced below that amount; and all laws creating new counties, changing county lines, or removing county seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting at such election, in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants, may be divided whenever a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose; but no town or city within the same shall be divided, nor shall either of the divisions contain less than twenty thousand inhabitants.

The power to make new counties, and to change county lines, existed under the former Constitution. *State* v. *Choate*, 11 Ohio, 511.

The act to erect the county of Noble, passed March 11, 1851, is not inconsistent with this Constitution, nor repealed by it. *State* v. *Dudley*, 1 Ohio St. 437. Nor does the act of March 29, 1866 (33 v. 58), "to provide for the removal of the seat of justice of Wood county," contravene this provision. *Peck* v. *Weddell*, 17 Ohio St. 271; *Powers* v. *Reed*, 19 Ohio St. 189. And see Art. II, Sec. 28, Note 2.

SEC. 31. The members and officers of the general assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of postage or otherwise; and no change in their compensation shall take effect during their term of office.

SEC. 32. The general assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred.

The Constitution of 1802 contained no such prohibition; but in *Bingham* v. *Miller*, 17 Ohio, 445, it was held that the legislature had no power, by a special act, to grant a divorce, that being the exercise of a judicial, not a legislative function—a function not granted to the legislature by the Constitution; but that body having exercised the power for more than forty years, to avoid the consequences which would result from declaring all those void which had been granted by the legislature—rendering illegitimate the issue of second marriage—the court would pronounce them valid.

ARTICLE III.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, and an attorney-general, who shall be elected on the first Tuesday after the first Monday in November, by the electors of the state, and at the places of voting for members of the general assembly. [*As amended October 13, 1885;* 82 v. 446.

SEC. 2. The governor, lieutenant-governor, secretary of state, treasurer, and attorney-general shall hold their offices for two years, and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish

them, and declare the result, in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be declared duly elected; but if any two or more shall be highest, and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses.

SEC. 4. Should there be no session of the general assembly in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened and the result declared by the governor, in such manner as may be provided by law.

SEC. 5. The supreme executive power of this state shall be vested in the governor.

Although the governor, in the exercise of the supreme executive power of the state, may, from the nature of his authority, have a discretion which cannot be controlled by judicial power, yet in regard to a ministerial act, which might have been devolved on any other officer of the state, and affecting any specific private right, he may be made amenable to the compulsory power of the courts. *State* v. *Chase*, 5 Ohio St. 528.

"Under our system of government, no officer is placed above the restraining authority of the law, which is truly said to be universal in its behests—'all paying it homage, the least as feeling its care, and the greatest as not exempt from its power.' The judicial power can not interpose and direct in regard to the performance of an official act, which rests in the discretion of any officer, whether executive, legislative or judicial. The constitutional provision declaring that 'the supreme executive power of this state shall be vested in the governor,' clothes the governor with important political powers, in the exercise of which he uses his own judgment or discretion, and in regard to which his determinations are conclusive. But there is nothing in the nature of the chief executive officer of this state which prevents the performance of some duties merely ministerial being enjoined on the governor. While the authority of the governor is supreme in the exercise of his political and executive functions, which depend

upon the exercise of his own judgment or discretion, the authority of the judiciary of the state is supreme in the determination of all legal questions involved in any matter judicially brought before it. Although the state can not be sued, there is nothing in the nature of the office of governor which prevents the prosecution of a suit against the person engaged in discharging its duties." *Ib.* 534, 535—Bartley, C. J.

SEC. 6. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices; and shall see that the laws are faithfully executed.

SEC. 7. He shall communicate at every session, by message, to the general assembly, the condition of the state, and recommend such measures as he shall deem expedient.

SEC. 8. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened.

SEC. 9. In case of a disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 10. He shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States.

SEC. 11. He shall have power, after conviction, to grant reprieves, commutations, and pardons, for all crimes and offenses, except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations, as to the manner of applying for pardons, as may be prescribed by law. Upon conviction for treason he may suspend the execution of the sentence, and report the case to the general

assembly, at its next meeting, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon, granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

The governor, by virtue of the provisions of this section, is authorized, of his own motion, to reprieve or suspend, for a specified interval of time, the execution of a prisoner under sentence of death. *Sterling* v. *Drake*, 29 Ohio St. 457.

The act of February 1, 1858 (51 v. 823, giving to parties imprisoned for non-payment of fines the benefit of the laws for the relief of insolvent debtors, and authorizing their discharge as such, is not an attempt to place the pardoning power in hands other than those of the governor of the state. It is merely a modification of the penalties prescribed for certain offenses, and is not in conflict with the Constitution. *Ex parte Scott*, 19 Ohio St. 581. (See *Art. 1 § 12 Note 1.*)

SEC. 12. There shall be a seal of the state, which shall be kept by the governor, and used by him officially; and shall be called "The Great Seal of the State of Ohio."

SEC. 13. All grants and commissions shall be issued in the name and by the authority of the state of Ohio; sealed with the great seal; signed by the governor, and countersigned by the secretary of state.

SEC. 14. No member of congress, or other person holding office under the authority of this state, or of the United States, shall execute the office of governor, except as herein provided.

SEC. 15. In case of the death, impeachment, resignation, removal, or other disability of the governor, the powers and duties of the office, for the residue of the

term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

SEC. 16. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 17. If the lieutenant-governor, while executing the office of governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 18. Should the office of auditor, treasurer, secretary, or attorney-general, become vacant, for any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 19. The officers mentioned in this article shall, at stated times, receive for their services, a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 20. The officers of the executive department

and of the public state institutions shall, at least five days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly.

ARTICLE IV.

JUDICIAL.

SECTION 1. The judicial power[1] of the state is vested in a supreme court,[2] circuit courts, courts of common pleas, courts of probate, justices of the peace, and such other courts inferior to the supreme court, as the general assembly may, from time to time, establish.[3] [*As amended October 9, 1883;* 80 v. 382.]

1. The authority conferred on the senate to try contested elections is not judicial power within the meaning of this section, which requires the judicial power of the state to be vested in the courts. *State* v. *Harmon*, 31 Ohio St., 250.

It is the right and duty of the judicial tribunals to determine whether a legislative act drawn in question in suit pending before them, is opposed to the Constitution of the United States, or of this state, and if so found, to treat it as nullity. *C., W. & Z. R. R. Co.* v *Com. of Clinton Co.*, 1 Ohio St., 77.

In such case the presumption is always in favor of the validity of the law; and it is only when manifest assumption of authority and a clear incompatibility between the Constitution and the law appear, that the judicial power will refuse to execute it. *Ib., State* v. *Dudley, Ib.*, 437; *Cass* v. *Dillon*, 2 Ohio St., 608; *Hill* v. *Higdon*, 5 Ohio St., 243; *Goshorn* v. *Purcell*, 11 Ohio St., 641; *Armstrong* v. *Treas. of Athens Co.*, 10 Ohio, 235.

While we should be careful not to extend the powers of government, by far-fetched implication, we should be equally careful not to defeat the purpose of the constitution, by a narrow and unreasonable construction. *Cass* v. *Dillon*, 2 Ohio St., 608.

Courts can not nullify an act of legislation on the vague ground that they think it opposed to a general latent spirit, supposed to pervade or underlie the Constitution, but which neither

its terms nor its implication clearly discloses. *Walker* v. *Cincinnati*, 21 Ohio St., 14.

The general and abstract question, whether an act of the legislature be unconstitutional, can not with propriety be presented to a court; the question must be, whether the act furnishes the rule to govern the particular case. *Foster* v. *Com. of Wood Co.*, 9 Ohio St., 540-543—Gohlson, J.

As a general rule, one part of an act will not be held unconstitutional and another part constitutional, unless the respective parts are independent of each other. They must stand or fall together. *State* v. *Com. of Perry Co.*, 5 Ohio St., 497.

When the provisions are all parts of a single scheme, having a common object, and are interwoven with and dependent upon one another, if any are unconstitutional, all must fail. *Monroe* v. *Collins*, 17 Ohio St., 665.

But parts of an enactment, when capable of separation, may be valid and effectual, when other parts may be void, by reason of repugnancy to a constitutional provision. *Stevens* v. *State*, 3 Ohio St., 453; *Texas B. Ass. No.* 2 v. *Aurora F. & M. Ins. Co.*, 34 Ohio St., 291.

"A part of the statute may be void for want of conformity to the Constitution, and the remainder valid. Whether or not the infirmity that avoids a part affects the entire act, depends upon the connection and dependence on each other of its various provisions. Where they are so inseparably connected in subject-matter, and so relate to each other as to give rise to a presumption that a part would not have been enacted without the whole, the entire act is void. But where no such connection or dependence exists, that part of the statute not itself in conflict with any constitutional provision, is as valid as if independently enacted." *Railroad* v. *Commissioners*, 31 Ohio St., 338, 343—Boynton, J.

The rejection of some of the provisions of the statute, for unconstitutionality, will not vary the sense or meaning of its remaining provisions, which are to be construed as well in the light of those rejected as of those which remain. *State* v. *Dombaugh*, 20 Ohio St., 167.

The rule applicable to constitutions, as well as statutes, is that where the language is clear there is no room for construction, and the spirit of a provision must be extracted from its words, and not from conjectures *aliunde*. *Wilcox* v. *Nolze*, 34 Ohio St., 520-523—Okey, J.

Whatever inference might be drawn from the debates in the constitutional convention, every provision of the Constitution should be construed agreeably to the import of its terms, as they may be fairly presumed to have been understood by the people, whose ratification alone gave validity to the whole instrument. *Lehman* v. *McBride*, 15 Ohio St., 573-602; See 2 Ohio St., 607-621; 3 Ohio St., 1-46; 7 Ohio St., 546-563; 9 Ohio St., 568-578.

2. The supreme court of the United States has appellate jurisdiction, in certain cases, over the court of last resort in the several states. *Piqua Bank* v. *Knoup*, 6 Ohio St., 342; *Skelly* v. *Jefferson Bank*, 9 Ohio St., 606.

3. See *Art. IV, § 15, Note 1.*

SEC. 2. The supreme court shall, until otherwise provided by law, consist of five judges, a majority of whom competent to sit shall be necessary to form a quorum or to pronounc a decision, except as hereinafter provided. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus and procedendo,[1] and such appellate jurisdiction as may be provided by law. It shall hold at least one term in each year at the seat of government, and such other terms, there or elsewhere, as may be provided by law.[2] The judges of the supreme court shall be elected by the electors of the state at large, for such term, not less than five years, as the general assembly may prescribe, and they shall be elected and their official term shall begin at such time as may be fixed by law. In case the general assembly shall increase the number of such judges, the first term of each of such additional judges shall be such, that in each year after their first election, an equal number of judges of the supreme court shall be elected, except in elections to fill vacancies; and whenever the number of such judges shall be increased, the general assembly may authorize such court to organize divisions thereof, not exceeding three, each division to consist of an equal

number of judges; for the adjudication of cases, a majority of each division shall constitute a quorum, and such an assignment of the cases to each division may be made as such court may deem expedient, but whenever all the judges of either division hearing a case shall not concur as to the judgment to be rendered therein, or whenever a case shall involve the constitutionality of an act of the general assembly or of an act of congress, it shall be reserved to the whole court for adjudication. The judges of the supreme court in office when this amendment takes effect, shall continue to hold their offices until their successors are elected and qualified. [*As amended October 9, 1883;* 80 v. 382.]

1. The original jurisdiction of the supreme court is limited by the Constitution to quo warranto, mandamus, habeas corpus, and procedendo. *Logan Branch Bank, ex parte*, 1 Ohio St., 432; *Kent* v. *Mahaffy*, 2 Ohio St., 498.

"This is the only original jurisdiction granted by this instrument, and it would be wholly inconsistent with, and in a great measure destructive of, the judicial system it ordains, to suppose that its original jurisdiction can be enlarged by law. It is true there is no express prohibition against it, but none was necessary. The court can exercise only such powers as the Constitution itself confers, or authorizes the legislature to grant. It can derive no power elsewhere. The only jurisdiction that the legislature is authorized to confer upon the supreme court is appellate jurisdiction. For it cannot be supposed that, by the general grant of legislative power, in the second article of the Constitution, the legislative authority to confer powers upon courts is extended beyond the authority vested in the assembly by the fourth or judicial article." *Kent* v. *Mahaffy*, 2 Ohio St., 489, 499—Thurman, J.

The power to grant an injunction in a case pending in the court of common pleas, can not constitutionally be conferred on the supreme court. *Ib.*, 498. And see *Griffith* v. *Com. of Crawford Co.*, 20 Ohio, 609. Nor can such power be conferred on a single judge of that court, sitting at chambers. *P., Ft. W. & C. R. R. Co.*, v. *Hurd*, 17 Ohio St. 144.

Nor has that court original jurisdiction, under the Constitution to hear and determine an action purporting to be brought therein to enjoin illegal taxes. *Wheeler* v. *Lynn*, 8 Ohio St., 393.

The supreme court is limited in its powers to the decision of such questions as properly arise in the due course of law, in a judicial proceeding within its jurisdiction. *State* v. *Baughman*, 38 Ohio St., 455.

2. The appellate jurisdiction of the supreme court extends only to the judgments and decrees of courts created and organized in pursuance of the provisions of the Constitution. Therefore the appeal from the decision of the auditor of state, provided in the seventy-fourth section of the act of April 13, 1852 (50 v. 166), "for the assessment and taxation of all property in this state," etc., is in conflict with the provisions of the Constitution from which the jurisdiction of the court is derived, and hence can not be held. *Logan Branch Bank, ex parte*, 1 Ohio St., 432.

The circuit and supreme courts are capable of receiving jurisdiction to review cases decided by themselves. *Longworth* v. *Sturges*, 4 Ohio St., 692.

By the Constitution and the act of February 19 1852 (50 v. 67), for the organization of the courts, ample power is given to the supreme court to review a judgment of the late supreme court on the circuit. *Groves* v. *Stone*, 3 Ohio St., 576.

SEC. 3. The state shall be divided into nine common pleas districts, of which the county of Hamilton shall constitute one, of compact territory, and bounded by county lines,[1] and each of said districts, consisting of three or more counties, shall be subdivided into three parts of compact territory bounded by county lines, and as nearly equal in population as practicable;[2] in each of which, one judge of the court of common pleas for said district,[3] and residing therein, shall be elected by the electors of said subdivision. Courts of common pleas shall be held by one or more of these judges, in every county in the district, as often as may be provided by law; and more than one court, or sitting thereof, may be held at the same time in each district.[4]

1. "To construe properly this provision, reference must be had to other parts of the Constitution. It certainly cannot mean that the number of the districts shall always continue to be

nine, since power is given to the general assembly to increase or diminish them (§ 15). It is equally clear that it cannot mean that the county limits shall always remain the same, as full power is given to change them and make new counties (Art. II, § 30). To hold, on the other hand, that the limits of the districts must of necessity enlarge or diminish with the counties named as embraced in them, would be to say that Hamilton county, so reduced by division as to contain but twenty thousand inhabitants, would still constitute a district and be entitled to lect three judges. When taken in connection with the fact that the convention itself proceeded to make the division referred to in this section (see Art. XI, § 12), it is very clear to us that it must be regarded mainly as prescribing a rule for the government of their own action; and when they did act in accordance with it, and fixed the districts by definite boundaries, they must so remain, securing to all citizens included within them their right of suffrage in such districts until changed by legislative enactment." *State* v. *Dudley*, 1 Ohio St. 437-449—Ranney, J.

2. The subdivisions can be neither more nor less than three. *District Court case*, 34 Ohio St. 431.

3. The judges of the courts of common pleas are judges of their respective districts, and not of the mere subdivision thereof. The subdivision of the districts is for election purposes merely. *Harris* v. *Gest*, 4 Ohio St. 472.

4. There is nothing in the Constitution t at forbids the holding of common pleas courts in different counties of a subdivision at the same time. *Ib.*

SEC. 4. The jurisdiction of the courts of common pleas, and of the judges thereof, shall be fixed by law.

The Constitution confers no jurisdiction whatever upon the court of common pleas, in either civil or criminal cases. It is made capable of receiving jurisdiction in all such cases, but can exercise none until conferred by law. *Stevens* v. *State*, 3 Ohio St. 453

See Art. II, § 26, Note 1; Art. IV, § 8, Note 3.

SEC. 5. [*Repealed October 9, 1883*; 80 v. 382.]

SEC. 6. The circuit court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law. Such courts

shall be composed of such number of judges as may be provided by law, and shall be held in each county at least once in each year. The number of circuits, and the boundaries thereof, shall be prescribed by law. Such judges shall be elected in each circuit by the electors thereof, and at such time and for such term as may be prescribed by law, and the same number shall be elected in each circuit. Each judge shall be competent to exercise his judicial powers in any circuit. The general assembly may change, from time to time, the number of boundaries of the circuits. The circuit courts shall be the successors of the district courts, and all cases, judgments, records, and proceedings pending in said district courts, in the several counties of any district, shall be transferred to the circuit courts in the several counties, and be proceeded in as though said district courts had not been abolished, and the district courts shall continue in existence until the election and qualification of the judges of the circuit courts. [*As amended October 9, 1883;* 80 v. 382.]

SEC. 7. There shall be established in each county a probate court, which shall be a court of record,[1] open at all times, and holden by one judge, elected by the voters of the county, who shall hold his office for the term of three years,[2] and shall receive such compensation, payable out of the county treasury, or by fees, or both, as shall be provided by law.

1. The probate courts of this state are, in the fullest sense, courts of record; they belong to the class whose records import absolute verity, that are competent to decide on their own jurisdiction, and to exercise it to final judgment, without setting forth the facts and evidence on which it was rendered. *Shroyer* v. *Richmond*, 16 Ohio St., 455.

2. The county of Wyandot on account of a tie vote, failed to elect a probate judge on the second Tuesday of October, 1851, as prescribed by the fourth section of the schedule to this Constitution. At the fall election of 1852, K. was elected to that office, and was commissioned for the term of three years At the fall election of 1855 he was re-elected and commissioned for a like term. On the second Tuesday of October, 1857, and while K still remained judge *de facto*, another election was held for the office, and M. received the highest number of votes. Held—that K. was, on each of said elections, legally commissioned for the term of three years, and that M. was not therefore entitled to a commission to take effect from the 9th day of February, 1858. *State* v. *Chase*, 7 Ohio St., 372. (*See Art. IV, § 18, Note.*)

SEC. 8. The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators, and guardians, and such jurisdiction in habeas corpus, the issuing of marriage licenses, and for the sale of land by executors, administrators,[1] and guardians, and such other jurisdiction in any county or counties[2] as may be provided by law.

1. There exists no constitutional impediment in investing the probate court with power upon final settlement with the administrator of an intestate estate, to order distribution of the money remaining in his hands to the persons entitled thereto. *McLaughlin* v. *McLaughlin*, 4 Ohio St. 508.

The act of January 9, 1871 (68 v. 6), conferring jurisdiction upon courts of common pleas to appoint guardians of the property of persons incapable of taking care of and preserving their property, by reason of intemperance and habitual drunkenness, is not in conflict with the provisions of this section defining the jurisdiction of probate courts. *Hagany* v. *Cohuen*, 29 Ohio St. 82.

2. This jurisdiction may be extended to all the counties in the state, by a general enactment. "The words, 'in any county or counties,' were probably used rather as enabling than restrictive language, and were designed to permit the general assembly —notwithstanding the provisions of the twenty-sixth section of the second article, requiring all laws of a general nature to have a uniform operation throughout the state—in its discretion, to confer upon the probate court more extended powers in some counties than in others. Upon the opposite construction, a power to confer the jurisdiction in one county by a local enactment, is a power to confer it in all the counties in the same manner; which brings us to the absurd conclusion that the legislature is competent to do by ninety laws what it is incompetent to do by one." *Giesy* v. *C. W. & Z. R. R. Co*, 4 Ohio St. 308-320—Ranney, J.

"A jurisdiction may be given to the probate court in one county, which is not conferred in another; but this express exception relates only to the extent of the jurisdiction of the probate court. The whole object of the section is to define the

limits of its jurisdiction; it treats of nothing else, and does not once name the courts of common pleas. Nor does it follow as a necessary conclusion that because the jurisdiction of the probate court may be more extensive in one county than another, the jurisdiction of the courts of common pleas must also differ in extent. The latter may be uniform and the former not. The probate court may, in some counties possess a jurisdiction concurrent with the common pleas, which is denied to it in others." *Kelley* v. *State*, 6 Ohio St. 269-273—Scott, J.; and see *Art. II*, § 26, *Note 1*.

SEC. 9. A competent number of justices of the peace shall be elected, by the electors, in each township in the several counties. Their term of office shall be three years, and their powers and duties shall be regulated by law.

SEC 10. All judges, other than those provided for in this constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than five years.

SEC. 11. [*Repealed October 9, 1883*; 80 v. 382.]

SEC. 12. The judges of the courts of common pleas shall, while in office, reside in the district for which they are elected; and their term of office shall be for five years.

SEC. 13. In case the office of any judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified; and such successor shall be elected for the unexpired term, at the first annual election that occurs more than thirty days after the vacancy shall have happened.

Where a vacancy occurred in the office of probate judge of Pickaway county more than thirty days before the next annual election, at which a probate judge for the constitutional term

was also to be chosen, and the sheriff in his proclamation giving notice of said election, failed to give notice that a probate judge would be chosen to fill the unexpired term, but merely gave notice that one probate judge for said county would be chosen, without more, and the voters cast their ballots or probate judge without indicating for the unexpired term—Held: 1. That under the Constitution and laws of this state, such election of of probate judge was not void for uncertainty. 2. That such election did not embrace both the offices which should have been voted for at that time. 3 That the judge thus elected must, by reasonable intendment, be held to have been elected for the full, and not for the unexpired term. *State* v. *Cogswell*, 8 Ohio St. 620.

The term office of a judge elected to fill a vacancy is limited to the unexpired portion of the regular term in which such vacancy occurs; and a commission assuming to confer official authority for a longer term is, as to the excess, inoperative. *Scarff* v. *Foster*, 15 Ohio St., 537.

Where a vacancy is about to occur in the office of probate judge, by reason of the expiration of the term of an incumbent of that office, and the sheriff, in pursuance of the statute, in due time prior to the day for the regular election, publishes his proclamation, giving notice of such election, and enumerating therein all the state and county offices to be filled at such election, except the office of probate judge, in respect to which the proclamation is silent; and, by reason of such misfeasance of the sheriff, the great body of the electors of such county are misled, and have no notice, either official or in fact, of an election to fill the office of probate judge; but, nevertheless a small number of the electors of the county, less than one-fourth of the whole number of voters at that election, cast their votes for a single candidate and no votes are cast for any other, such attempted election is irregular and invalid. *Foster* v. *Scarff*, 15 Ohio St., 532.

For this section the implication is manifest, that the Constitution intends that in respect to elections to fill vacancies in the office of judge, at least thirty day's time for notice of the election shall be afforded. . . . We do not intend to hold, nor are we of opinion, that the notice by proclamation, as prescribed by law, is *per se*, and in all supposable cases, necessary to the validity of an election If such were the law, it would be in the power of a ministerial officer, by his misfeasance, always to prevent a legal election. We have no doubt that where an election is held in other respects as prescribed by law, and notice in

fact of the election is brought home to the great body of the electors, though derived through means other than the proclamation which the law prescribes, such election would be valid. But where, as in this case, there was no notice, either by official proclamation or in fact, and it is obvious that the great body of the electors were misled, for want of the official proclamation its absence becomes such an irregularity as to prevent an actual choice by the electors, prevents an actual election, in the primary sense of that word, and renders invalid any semblance of an election, which may have been attempted by a few, and which must operate, if it be allowed to operate at all as a surprise and fraud upon the rights of the many. *Ib.*, 535, 537—Brinkerhoff, C. J.

SEC. 14. The judges of the supreme court, [of the circuit court], and of the court of common pleas, shall, at stated times, receive for their services, such compensation as may be provided by law, which shall not be diminished, or increased, during their term of office; but they shall receive no fees or perquisites, nor hold any other office of profit or trust under the authority of this state, or the United States.[1] All votes for either of them, for any elective office, except a judicial office, under the authority of this state, given by the general assembly, or the people, shall be void.

1. The act of May 4, 1869 (66 v. 80), "relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants," is not opposed to this section. The duty it imposes upon the court—the appointment of trustees of a railroad to be constructed by a municipal corporation—is of judicial character. Neither does it create a new office, in imposing this duty on the judges of the court, but simply annexes a new duty to an existing office. *Walker* v *Cincinnati*, 21 Ohio St., 14.

So also the authority of determining the number and compensation of assistants to various county officers, conferred by the act of April 6, 1870 (67 v. 36), and the supplemental act of April 12, 1871 (68 v. 58), on the judges of the court of common pleas, does not invest them with a new office, but merely authorizes them to perform additional duties as judges. *State* v. *Judges*, *Ib.*, 1.

SEC. 15. The general assembly may increase, or diminish, the number of the judges of the supreme court, the number of the districts of the court of common pleas, the number of judges in any district, change the districts, or the subdivisions thereof, or establish other courts,[1] whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition or diminution, shall vacate the office of any judge.[2]

1. "It is perfectly clear that, upon the creation of any additional court by the legislature, the judicial officer must be elected, as such, by the electors of the district for which such court is created (Art. IV, § 10); and it is not within the competency of the legislature to clothe with judicial power any officer or person not elected as a judge." *Logan Branch Bank, ex parte*, 1 Ohio St., 432-434—Corwin, J.

The act of May 3, 1852. "To provide for the organization of cities and incorporated villages," (50 v. 223), conferring on mayors of cities of the second class "all the jurisdiction and powers of a justice of the peace in all matters civil and criminal," provided the same was passed by a vote of two-thirds of all the members elected to each house of the general assembly, is not in contravention of this Constitution. *Steamboat Northern Indiana* v. *Milliken*, 7 Ohio St., 383.

Such concurrence will, in absence of all showing to the contrary, be presumed. *Ib.*, *Miller* v. *State*, 3 Ohio St., 475.

The subdivisions can be neither more nor less than three. *District Court case*, 34 Ohio St., 431.

The general assembly may provide for the election of a successor to any such additional judge; but in the absence of words clearly indicating such purpose, no such election is authorized. *State* v. *Brown*, 38 Ohio St., 344.

2. That is, the office of any judge of a court established by this Constitution. But the Constitution has not limited the power of the general assembly to abolish courts created by the legislature, nor its power to vacate the office of judges of such courts. *State* v. *Wright* 7 Ohio St. 333.

SEC. 16. There shall be elected in each county, by the electors thereof, one clerk of the court of common

pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be clerk of all other courts of record held therein; but, the general assembly may provide, by law, for the election of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the judge of the probate court to perform the duties of clerk for his court, under such regulations as may be directed by law. Clerks of courts shall be removable for such cause and in such manner as shall be prescribed by law.

The period for the termination of the office of clerk of the court of common pleas, held by simple appointment to fill a vacancy, is not fixed by the Constitution, but subject to legislative enactment. (Art. II, § 20). *State* v. *Neibling*, 6 Ohio St., 40.

In case of a vacancy in the office of clerk of the court of common pleas, the successor, elected by the electors of the county, is elected for the full term of three years, which will commence from and after the day of his election. *Ib.*

SEC. 17. Judges may be removed from office, by concurrent resolution of both houses of the general assembly, if two thirds of the members elected to each house concur therein; but no such removal shall be made, except upon complaint, the substance of which shall be entered on the journal, nor, until the party charged shall have had notice thereof, and an opportunity to be heard.

SEC. 18. The several judges of the supreme court, [of the circuit court], of the common pleas [court], and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers, or otherwise, as may be directed by law.

"Jurisdiction of chambers is incidental to, and grows out of, the jurisdiction of the court itself. It is the power to hear and

determine, out of court, such questions arising between the parties to a controversy, as might well be determined by the court itself, but which the legislature has seen fit to intrust to the judgment of a single judge out of court, without requiring them to be brought before the court in actual session. It follows that the jurisdiction of a judge at chambers can not go beyond the jurisdiction of the court to which he belongs, or extend to matters with which his court has nothing to do; and the Constitution, in granting such jurisdiction at chambers to the judges of the several courts of the state, as may be directed by law, is to be understood as limiting the jurisdiction of each to such subject-matters as are within the jurisdiction of his proper court, and to which it is, *ex vi termini*, limited." *P., Ft. W., & C. Ry. Co.* v. *Hurd*, 17 Ohio St., 144-146, 147—Scott, J.

SEC. 19. The general assembly may establish courts of conciliation, and prescribe their powers and duties; but such courts shall not render final judgment in any case, except upon submission, by the parties, of the matter in dispute, and their agreement to abide such judgment.

SEC. 20. The style of all process shall be "The State of Ohio;" all prosecutions shall be carried on in the name, and by the authority, of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the State of Ohio."

Where it appears from the caption of an indictment that the prosecution is carried on "in the name and by the authority of the state of Ohio," it need not be again averred in the successive counts of the indictment; and if the indictment contains more than one count and a *nolle prosequi* is entered as to the first, the remaining counts of the indictment will not thereby be rendered defective for the want of that averment, where it is contained in the caption. *Davis* v. *State*, 19 Ohio St., 270.

SEC. 21. A commission, which shall consist of five members, shall be appointed by the governor, with the advice and consent of the senate, the members of which shall hold office for the term of three years from and

after the first day of February, 1876, to dispose of such part of the business then on the dockets of the supreme court as shall, by arrangement between said commission and said court, be transferred to such commission; and said commission shall have like jurisdiction and power in respect to such business as are or may be vested in said court; and the members of said commission shall receive a like compensation for the time being with the judges of said court. A majority of the members of said commission shall be necessary to form a quorum or pronounce a decision, and its decision shall be certified, entered, and enforced as the judgments of the supreme court, and at the expiration of the term of said commission all business undisposed of shall by it be certified to the supreme court, and disposed of as if said commission had never existed. The clerk and reporter of said court shall be the clerk and reporter of said commission, and the commission shall have such other attendants, not exceeding in number those provided by law for said court, which attendants said commission may appoint and remove at its pleasure. Any vacancy occurring in said commission shall be filled by appointment of the governor, with the advice and consent of the senate, if the senate be in session; and if the senate be not in session, by the governor; but in such last case, such appointment shall expire at the end of the next session of the general assembly. The general assembly may, on application of the supreme court, duly entered on the journal of the court and certified, provide by law, whenever two-thirds of each house shall concur therein, from time to time, for the appointment in like manner of a like commission with like powers, jurisdiction, and duties; provided that the term of any such commission

shall not exceed two years, nor shall it be created oftener than once in ten years. [*As adopted October 12, 1875*: 72 v. 269.]

The power of the supreme court to vacate or modify its judgment or orders, after the term, extends, since the expiration of the supreme court commission, to the judgments and orders of that body, as fully as to judgments and orders of the court, *Murphy* v. *Swadner*, 32 Ohio t. 672.

The supreme court has no power to re-hear a case decided by the late supreme court commission on the ground that the same was erroneously determined. *Maud* v. *Maud*, 32 Ohio St. 540.

The action of a commission in dismissing a proceeding in error, and overruling a motion to reinstate the same is final. *Atcherly* v. *Dickinson*, 32 Ohio St. 537.

ARTICLE V.

ELECTIVE FRANCHISE.

SECTION 1. Every white[1] male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector,[2] and be entitled to vote at all elections.[3]

1. For a discussion and definition of the word "white," as here used, see *Anderson* v. *Millikin*, Ohio St. 568; *Monroe* v. *Collins*, 17 Ohio St. 665; *Jeffries* v. *Ankeny*, 11 Ohio St. 372; *Thacker* v. *Hawk*, *Ib.*, 376; *Gray* v. *State*, 4 Ohio, 353; *Lane* v. *Baker*, 12 Ohio, 237; *Williams* v. *School Directors*, Wright's Rep. 178.

This restriction on the elective franchise is now abrogated by the fourteenth and fifteenth articles of amendment to the Federal Constitution. Article XIV, so far as it relates to this subject, is as follows: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside." The

fifteenth article provides that, 1. "The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by the state, on account of race, color or previous condition of servitude." 2. The congress shall have power to enforce this article by appropriate legislation. Such legislation has been enacted by congress.

2. The legislature has no right, directly or indirectly, to deny or abridge the constitutional right of citizens to vote, or unnecessarily to impede its exercise; and laws passed professedly to regulate its exercise or prevent its abuse, must be reasonable, uniform and partial. *Monroe* v. *Collins*, 17 Ohio St. 655. And see *State* v. *Constantine*, 42 Ohio St. 437.

3. The act of April 13, 1863 (60 v. 80), "to enable qualified voters of this state, in the military service of this state or of the United States, to exercise the right of suffrage," was intended to enable qualified voters of the state, in the military service, to vote in accordance with its provisions, as well without as within the territorial limits of this state. The act is not clearly in conflict with any constitutional provision, and is, therefore, to be regarded as a constitutional and valid enactment. It does not purport to have such extra territorial operation and effect as would place its enactments beyond the legitimate sphere of the legislative power of the state, and so render them invalid. *Lehman* v. *McBride*, 15 Ohio St. 573.

"Ths general principle which pervades the Constitution on the subject of elections, is that no one shall be allowed to participate in the election of officers whose jurisdiction will not extend over him, or territorily include the place of his residence; but that the electors of each district or civil subdivision of the state shall have the right to elect their own official representatives or public functionaries. Under a proper construction of the Constitution, persons having the qualifications of electors may justly claim a right to vote at all elections, of officers of the state, and of such other civil officers as by the provision of the Constitution and laws, are to be chosen by the electors of the county, township, ward or district in which such persons respectively reside. The place of holding an election is not the criterion, and furnishes no essential part of the test, which limits the elector's right to vote 'at all elections.' But a right to vote at all elections does not import a right to vote at more than one of the places prescribed by law for holding an election, any

more than it imports a right to vote more than once at the same place." *Ib.*, 528—Scott, J.

"We find nothing in this section which refers, in the slightest degree, even by implication, to the place of holding elections. Had it been the intention of the framers of our present Constitution to fix or limit by this section, the place at which the elective franchise should be exercised by the voters respectively, it is quite remarkable that no attempt should have been made to do so, in express terms; that such an important limitation of legislative power should have been left to be gathered from what is not said, or to be inferred from a declaration of the elector's 'right to vote at all elections.' And it is the more remarkable because, in the corresponding section of the Constitution of 1802 (Art. IV, § 1), which defines the qualifications of electors, there was a clause of express limitation, in the following terms: "No person shall be entitled to vote except in the county or district in which he shall actually reside at the time of the election.' Now the fact that this clause was wholly excluded from the present Constitution, and no express limitation as to the place of voting was inserted in its stead, would seem to be quite significant. It is in this part of the Constitution, which treats solely of the elective franchise, that we would naturally expect to find, if anywhere, a restriction limiting the place of its exercise. Here such restriction was placed, in express terms, by the Constitution of 1802, and from this, its appropriate place, it was stricken out in the Constitution of 1851, and inserted in no other place. We think it may be very fairly inferred that while the Constitution defines the qualifications of electors, and prescribes by what portion of them all officers shall be chosen, it was intended to leave all further details, whether as to the place of holding elections, or the mode in which they should be conducted, to the wisdom of the legislature, to be provided for and modified from time to time, as the ever-varying circumstances of the unknown future might seem to require." *Ib.*

SEC. 2 All elections shall be by ballot.

SEC. 3. Electors during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest, in all cases, except treason, felony and breach of the peace.

SEC. 4. The general assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or other infamous crime.

SEC. 5. No person in the military, naval, or marine service of the United States, shall, by being stationed in any garrison, or military, or naval station, within the state, be considered a resident of this state.

Inmates of an asylum provided by the United States for disabled volunteer soldiers resident within the territory so used, being within the exclusive jurisdiction of a government other than that of the state within whose boundaries such asylum or territory may be situated, are not residents of such state within the meaning of this section of the Constitution; and where the Constitution of such state confers the elective franchise upon residents thereof alone, the inmates of such asylum, residents within such territory, are not entitled to vote at any election held within and under the laws of such state. *Sinks* v. *Reese*, 19 Ohio St. 306.

But persons residing in said asylum, at the time of an election after the jurisdiction there over has been restored to the state, and for the year next preceding the election, are to be regarded as residents of the state, and for the entire year, notwithstanding the fact that part of the year transpired while the jurisdiction was in the United States. *Renner* v. *Bennett*, 21 Ohio St. 431.

SEC. 6. No idiot or insane person shall be entitled to the privileges of an elector.

The vote of a man otherwise qualified, who is neither a lunatic nor an idiot, but whose faculties are simply greatly enfeebled by age, ought not to be rejected. *Sinks* v. *Reese*, 19 Ohio St. 307.

ARTICLE VI.

EDUCATION.

SEC. 1. The principal of all funds arising from the sale or other disposition of lands or other property

granted or entrusted to this state for educational and religious purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 2. The general assembly shall make such provisions, by taxation or otherwise,[1] as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state,[2] but no religious or other sect or sects shall ever have any exclusive right to, or control of, any part of the school funds of this state.

1. Section 78 of the tax law of 1859, as amended April 8, 1865 (62 v. 105), which authorizes the taxation of school lands immediately after sale, as the other lands in the state, is not in contravention of this section, where the payment of the purchase money, in whole or in part, is not defeated by such taxation. *State* v. *Purcel*, 31 Ohio St. 352.

2. The Constitution of the state does not enjoin or require religious instruction, or the reading of religious books in the public schools of the state. *Board of Education* v *Minor*, 23 Ohio St. 211.

The legislature having placed the management of the public schools under the exclusive control of directors, trustees, and boards of education, the courts have no rightful authority to interfere by directing what instruction shall be given, or what books shall be read therein. *Ib.*

The statute of March 14, 1853, "to provide for the reorganization, supervision and maintenance of common schools," is a law of classification, and not of exclusion, providing for the education of all youths within the prescribed ages; and the words "white" and "colored" as used in said act, are used in their popular and ordinary signification. Children of three-eighth African blood, generally treated and regarded as colored children by the community where they reside, are not, as of right, entitled to admission into the common schools set apart under said act, for the instruction of white youths. *Van Camp* v. *Board of Education of Logan*, 9 Ohio St. 406; *State* v. *McCann*, 21 Ohio St. 198.

Laws regulating the organization and management of the common schools, must have a uniform organization throughout the state. *State ex rel.* v. *Powers*, 38 Ohio St. 54.

See Art. I, § 7 Note 2; *Const. 1802, Art. VIII, § 25, Note.*

ARTICLE VII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind and deaf and dumb, shall always be fostered and supported by the state; and be subject to such regulations as may be prescribed by the general assembly.

SEC. 2. The directors of the penitentiary shall be appointed or elected in such manner as the general assembly may direct; and the trustees of the benevolent and other state institutions now elected by the general assembly, and of such other state institutions as may be hereafter created, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journals of the senate.

"The first clause of this section is in no way inconsistent or in conflict with the provisions of the twenty-seventh section of the second article, but is in entire harmony with it. It in no way qualifies or enlarges the exceptions to the general prohibition of any appointing power by the general assembly therein contained, but leaves the prohibition to operate with full force and effect. . . . . The clause of Art. VII, § 2, that 'the directors of the penitentiary shall be appointed or elected in such manner as the general assembly may direct,' and that of Art. II, § 27, that 'the election and appointment of all officers, and the filling of all vacancies not otherwise provided for by this Constitution, or the Constitution of the United States, shall be made in such manner

as may be directed by law,' are equivalent to each other. When ths legislature 'directs,' it directs by law. Its appropriate voice is the voice of law. The prohibition attached by way of proviso, expressly to the one, applies equally to both, and is no more in conflict with the one than with the other." *State* v. *Kennon*, 7 Ohio St. 546-561, 562—Brinkerhoff, J. And see *Art. II, § 27, Note 3.*

Longview Asylum is not a *state* institution within the meaning of this section. *Chalfant* v. *State*, 37 Ohio St. 60.

SEC. 3. The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the general assembly, and until a successor to his appointee shall be confirmed and qualified.

ARTICLE VIII.

PUBLIC DEBT AND PUBLIC WORKS.

SECTION 1. The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

See Art. VIII, § 3, Note.

SEC. 2. In addition to the above limited power, the state may contract debts to repel invasion, suppress insurrection, defend the state in war, or to redeem the present outstanding indebtedness of the state; but the money arising from the contracting of such debts shall

be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever; and all debts incurred to redeem the present outstanding indebtedness of the state, shall be so contracted as to be payable by the sinking fund, hereinafter provided for, as the same shall accumulate.

See Art. VIII, § 3, Note; Art. II, § 28, Note.

SEC. 3. Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by or on behalf of the state.

The natural and obvious meaning of the first three sections of this article applies their limitations to the state alone, and not to her subdivisions. *Cass* v *Dillon*, 2 Ohio St. 608; *Walker* v. *Cincinnati*, 21 Ohio St. 14-52.

The board of public works made contracts on behalf of the state, stipulating to pay yearly, for the period of five years, for materials and repa rs of the canals of the state, an amount i ı the aggregate af $1,375,000; Held: 1. That except in certain specific cases, no debt of any kind can be created on behalf of the state. 12. That no officers of the state can enter into any contract except in cases specified in the Constitution, whereby the general assembly will, two years after, be bound to make appropriations either for a particular object or a fixed amouut; the power and the discretion, intact, to make appropriations, in general, devolving on each biennial general assembly, and for the period of two years. 3. The contracts of the board of public works creating a present obligation to pay for the period of five years a certain amount, do not come within said constitutional exceptions, and are in controvention of the provisions of Art. VIII, § 3, and Art. II, § 2. *State* v. *Medberry*, 7 Ohio St. 522.

SEC. 4. The credit of the state shall not, in any manner be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner or stockholder in any company or association in this state, or elsewhere formed, for any purpose whatever.

It was competent for the Legislature under the constitution of 1802 to construct works of international improvement, on behalf of the state, or to aid in their construction by subscribing to the capital stock of corporations created for that purpose, and to levy taxes to raise the means; and by an exercise of the same power, to authorize a county or township to subscribe to a work of that character running through or into such county or township, and to levy a tax to pay the subscription. *C. W. & Z. R. R. Co.* v. *Com. of Clinton Co.*, 1 Ohio St. 77; *S. & I. R. R. Co.* v. *North Tp., Ib.*, 105; *Loomis* v. *Spencer, Ib.* 153; *Cass* v. *Dillon*, 2 Ohio St. 608; *Thompson* v. *Kelley, Ib.*, 647; *State* v. *Com. of Clinton Co.*, 6 Ohio St. 280; *State* v. *Van Horne*, 7 Ohio St. 327; *State* v. *Union Tp.*, 8 Ohio St. 394; *Paris Tp.* v. *Cherry, Ib.*, 564; *Treadwell* v. *Com. of Hancock Co.*, 11 Ohio St. 183; *State* v. *Com. of Hancock Co.*, 12 Ohio St. 596; *Goshen Tp.* v. *Shoemaker, Ib.*, 624; *Com. of Knox Co.* v. *Nichols*, 14 Ohio St. 260; *Fosdick* v. *Perrysburg. Ib.*, 472; *Shoemaker* v. *Goshen Tp., Ib.*, 569; *Walker* v. *Cincinnati*, 21 Ohio St. 14-43.

SEC. 5. The state shall never assume the debts of any county, city, town or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the state in war.

"The clear implications of this section are, that counties, cities, towns, and townships, may create debts to repel invasion, suppress insurrection or defend the state in war, which the state may assume; and may also create debts for other purposes which the state is forbidden to assume." *Walker* v. *Cincinnati*, 21 Ohio St. 14-52—Scott, C. J.

SEC. 6. The general assembly shall never authorize any county, city, town, or township, by vote of its citizens or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or loan its credit to, or in aid of any such company, corporation or association.

What the general assembly is thus prohibited from doing directly, it has the power to do indirectly. *Taylor* v. *Com. of Knox Co.*, 23 Ohio St. 22.

Where public credit or money is furnished by any of the subdivisions of the state named, to be used in part construction of the work which, under the statute authorizing its construction, must be completed, if completed at all, by other parties out of their own means, who are to own or have the municipal control and management of the work when completed, the public money or credit thus used can only be regarded as furnished for or in aid of such parties. *Ib.*

The act of April 23, 1872, to authorize counties, townships, and the municipalities therein named, to build railroads (69 v. 84), authorizing the raising of money by taxation, which is equally applicable to the unlawful purpose of aiding railroad companies and others engaged in building and operating railroads as it is to any lawful purpose, and gives to the officers intrusted with the control and application of the money thus raised, no means or power of discrimination as to the lawfulness or unlawfulness of the work or purpose to which it is to be applied, and thus it is in contravention of section six, article eight, of the constitution, and therefore void. *Ib.*

The mischief which this section interdicts is a business partnership between a municipality or subdivision of the state, and individuals or private corporations or associations. It forbids the union of public and private capital or credit in any enterprise whatever. In no project originated by individuals, whether associated or otherwise, with a view to gain, are the municipal bodies named permitted to participate in such manner as to incur pecuniary expense or liability. They may neither become stockholders nor furnish money or credit for the benefit of the parties interested therein. Though joint stock companies, corporations, and associations only are named, we do not doubt that the reason of prohibition would render it applicable to the case of a single individual. The evil would be the same, whether the public suffered from the cupidity of a single person, or from that of several persons associated together. As this alliance between public and private interests is clearly prohibited in respect to all enterprises, of whatever kind, if we hold that these municipal bodies can not do on their own account what they are forbidden to do on the joint account of themselves and private partners, it follows that they are powerless to make an improvement, however necessary, with their own means, and on their own sole account. We may be very sure that a purpose so unreasonable

was never entertained by the framers of the constitution. *Walker* v. *Cincinnati*, 21 Ohio St. 14-54, 55—Scott, C. J.

The act of May 4, 1869, "relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants" (66 v. 80), authorizing such cities to construct a railroad terminating in and essential to the interests of themselves, and to borrow, as a fund for that purpose, a sum of money not exceeding ten millions of dollars, violate neither the express nor implied prohibitions of this section. *Walker* v. *Cincinnati*, 21 Ohio St. 14 affirming 1 Cin. Sup. C. Rep. 121.

The act of March 29, 1867 (64 v. 80), "to authorize the county commissioners to construct roads on petition of a majority of resident landowners along and adjacent to the line of said road," etc., does not violate this section. *State* v. *Com. of Warren Co.*, 17 Ohio St. 558.

This section plainly refers to future legislation alone, and the acts it prohibits are not subscriptions under laws existing at the time of the adoption of the new Constitution, but the making of any more such laws. *Cass* v. *Dillon* 2 Ohio St. 608; *State* v. *Trustees of Union Township*, 8 Ohio St. 394; *Com. of Knox Co.* v. *Nichols*, 14 Ohio St. 260; *State* v. *Perrysburg*, 14 Ohio St. 472; *Thompson* v. *Kelly*, 2 Ohio St. 647; and see *Art. VIII*, § 4, *Note*.

SEC. 7. The faith of the state being pledged for the payment of its public debt, in order to provide therefor, there shall be created a sinking fund, which shall be sufficient to pay the accruing interest on such debt, and annually, to reduce the principal thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of six per cent. per annum. The said sinking fund shall consist of the net annual income of the public works and stocks owned by the state, of any other funds or resources that are, or may be, provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid.

SEC. 8. The auditor of state, secretary of state, and attorney-general, are hereby created a board of commis-

sioners, to be styled, "The Commissioners of the Sinking Fund."

SEC. 9. The commissioners of the sinking fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the governor, who shall transmit the same with his regular message to the general assembly; and the general assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

SEC. 10. It shall be the duty of the said commissioners faithfully to apply said fund, together with all moneys that may be, by the general assembly, appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the state, excepting only the school and trust funds held by the state.

SEC. 11. The said commissioners shall, semi-annually, make a full and detailed report of their proceedings to the governor, who shall immediately cause the same to be published, and shall also communicate the same to the general assembly forthwith, if it be in session, and if not, then at its first session after such report shall be made.

SEC. 12. So long as this state shall have public works which require superintendence, there shall be a board of public works, to consist of three members, who shall be elected by the people at the first general elec-

tion after the adoption of this Constitution, one for the term of one year, one for the term of two years, and one for the term of three years; and one member of said board shall be elected annually thereafter, who shall hold his office for three years.

SEC. 13. The powers and duties of said board of public works, and its several members, and their compensation, shall be such as now are, or may be, prescribed by law.

No powers can be exercised by the board under laws existing when the Constitution took effect, unless such laws are consistent with the provisions of the Constitution. *State* v. *Medberry*, 7 Ohio St., 522. "The laws referred to are only such as are in harmony with the Constitution" *Ib.*, 544—Swan, J.; and see *Art. VIII, § 3, Note.*

ARTICLE IX.

MILITIA.

SECTION 1. All white[1] male citizens, residents of this state, being eighteen years of age, and under the age of forty-five years, shall be enrolled in the militia, and perform military duty, in such manner, not incompatible with the Constitution and laws of the United States, as may be prescribed by law.[2]

1. *See Art. V, § 1, Note 1.* 2. *See Art. XII, § 1, Note.*

SEC. 2. Majors general, brigadiers general, colonels, lieutenant colonels, majors, captains, and subalterns, shall be elected by the persons subject to military duty, in their respective districts.

SEC. 3. The governor shall appoint the adjutant-general, quartermaster-general, and such other staff officers, as may be provided for by law. Majors general,

brigadiers general, colonels, or commandants of regiments, battalions, or squadrons, shall, severally, appoint their staff, and captains shall appoint their non-commissioned officers and musicians.

SEC. 4. The governor shall commission all officers of the line and staff, ranking as such; and shall have power to call forth the militia, to execute the laws of the state, to suppress insurrection, and repel invasion.

"The faithful execution of the laws when enacted, expounded and applied by the courts to cases when necessay, is confined to the executive. The militia is an arm of the executive power. . . Not a word is found in the Constitution giving countenance to the opinion sometimes expressed, and more frequently felt, that the militia or military force, instead of being a means to be employed by the executive department in executing the important duty of executing the laws, are a distinct department, equal to either of the others, and dependant of their control." *State* v. *Coulter*, Wright's Rep., 421-424-425.

SEC. 5. The general assembly shall provide, by law, for the protection and safe keeping of the public arms.

ARTICLE X.

COUNTY AND TOWNSHIP ORGANIZATIONS.

SECTION 1. The general assembly shall provide, by law, for the election of such county and township officers as may be necessary.

The Constitution did not create the municipalities of the state, nor does it attempt to enumerate their powers. It recognizes them as things already in being, with powers that will continue to exist, so far as they are consistent with the organic law, until modified or repealed. *Cass* v. *Dillon*, 2 Ohio St. 608.

This section has no relation to city or village officers. *State* v. *Covington*, 29 Ohio St. 102.

SEC. 2. County officers shall be elected on the first Tuesday after the first Monday in November, by the electors of each county, in such manner and for such term, not exceeding three years, as may be provided by law. [*As amended October 13, 1885*; 82 v. 446.]

SEC. 3. No person shall be eligible to the office of sheriff, or county treasurer, for more than four years, in any period of six years.

SEC. 4. Township officers shall be elected by the electors of each township at such time, in such manner, and for such term, not exceeding three years, as may be provided by law; but shall hold their offices until their successors are elected and qualified. [*As amended October 13, 1885;* 82 v. 449.]

SEC. 5. No money shall be drawn from any county or township treasury, except by authority of law.

The board of county commissioners has no power, under the Constitution and laws of Ohio, to employ an attorney to prose cute criminal complaints before the examining magistrates of the county, except in cases in which the county, in its *quasi* corporate capacity, has a direct interest Nor can the board of commissioners be compelled, by mandamus, to pay for such services out of the county treasury. *State* v. *Com. of Franklin Co.*, 21 Ohio St. 648.

SEC. 6. Justices of the peace, and county and township officers may be removed, in such manner and for such cause, as shall be prescribed by law.

SEC. 7. The commissioners of counties, the trustees of townships, and similiar boards, shall have such power of local taxation for police purposes, as may be precribed by law.

The construction of drains by townships, in cases where the public health, convenience, or welfare demands it, is within the meaning of "police purposes." *Sessions* v. *Crunkilton*, 22 Ohio St. 349.

ARTICLE XI.

APPORTIONMENT.

SECTION 1. The apportionment of this state for members of the general assembly shall be made every ten years, after the year one thousand eight hundred and fifty-one, in the following manner: The whole population of the state, as ascertained by the federal census, or in such other mode as the general assembly may direct, shall be divided by the number "one hundred," and the quotient shall be the ratio of representation in the house of representatives, for ten years next succeeding such apportionment.

"The apportionment of the state must be regarded as made by the convention, and none the less so because the approval of the people was made necessary to its ultimate effect. They but ratified and approved an act already done by their representatives in convention, and were not, in any correct sense, the authors of the act itself." *State* v. *Dudley*, 1 Ohio St. 437-442—Ranney, J.

"The Constitution apportions political powers amongst the inhabitants of the state, as nearly equal as possible in proportion to numbers, without any regard whatever to property, or, indeed, to any other circumstance. Inhabitants alone are represented; a given number in one place exercise the same political power, as a like number in any other locality. Some departure from the absolute equality of numbers is allowed in favor of the inhabitants of small counties, in the constitution of the house of representatives; but this in no wise changes the basis of representation from population to territory or property." *Ib.*

SEC. 2. Every county having a population equal to one-half of said ratio, shall be entitled to one representative; every county, containing said ratio, and three-fourths over, shall be entitled to two representatives; every county containing three times said ratio, shall be

entitled to three representatives, and so on, requiring after the first two, an entire ratio for each additional representative.

SEC. 3. When any county shall have a fraction above the ratio, so large, that being multiplied by five, the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratios, among the several sessions of the decennial period, in the following manner: If there be only one ratio, a representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a representative shall be allotted to the fourth and third sessions, respectively; if three, to the third, second and first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively.

SEC. 4. Any county, forming with another county or counties, a representative district, during one decennial period, if it have acquired sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it shall have been separated, a population sufficient for a representative; but no such change shall be made, except at the regular decennial period for the apportionment of representatives.

SEC. 5. If, in fixing any subsequent ratio, a county, previously entitled to a separate representation, shall have less than the number required by the new ratio for a representative, such county shall be attached to the county adjoining it, having the least number of inhabitants; and the representation of the district, so formed, shall be determined as herein provided.

SEC. 6. The ratio for a senator shall forever, hereafter, be ascertained, by dividing the whole population of the state by the number thirty-five.

SEC. 7. The state is hereby divided into thirty-three senatorial districts, as follows: The county of Hamilton shall constitute the first senatorial district; the counties of Butler and Warren, the second; Montgomery and Preble, the third; Clermont and Brown, the fourth; Greene, Clinton and Fayette, the fifth; Ross and Highland, the sixth; Adams, Pike, Scioto and Jackson, the seventh; Lawrence, Gallia, Meigs and Vinton, the eighth; Athens, Hocking and Fairfield, the ninth; Franklin and Pickaway, the tenth; Clark, Champaign and Madison, the eleventh; Miami, Darke and Shelby, the twelfth; Logan, Union, Marion and Hardin, the thirteenth; Washington and Morgan, the fourteenth; Muskingum and Perry, the fifteenth; Delaware and Licking, the sixteenth; Knox and Morrow, the seventeenth; Coshocton and Tuscarawas, the eighteenth; Guernsey and Monroe, the nineteenth; Belmont and Harrison, the twentieth; Carroll and Stark, the twenty-first; Jefferson and Columbiana, the twenty-second; Trumbull and Mahoning, the twenty-third; Ashtabula, Lake and Geauga, the twenty-fourth; Cuyahoga, the twenty-fifth; Portage and Summit, the twenty-sixth; Medina and Lorain, the twenty-seventh; Wayne and Holmes, the twenty-eighth; Ashland and Richland, the twenty-ninth; Huron, Erie, Sandusky and Ottawa, the thirtieth; Seneca, Crawford and Wyandot, the thirty-first; Mercer, Auglaize, Allen, Van Wert, Paulding, Defiance and Williams, the thirty-second; and Hancock, Wood, Lucas, Fulton, Henry and Putnam, the thirty-third. For the first decennial period, after the adoption of

this constitution, each of said districts shall be entitled to one senator, except the first district, which shall be entitled to three senators.

"The whole state is divided into districts, and the limits of each clearly and definitely fixed. These limits were, in every instance, described by county lines, as they existed when the Constitution was adopted by the convention—the boundaries of counties being referred to and adopted, from convenience and propriety, as the boundaries of districts; and thus making the limits of each district as certain as though it had been marked out by natural or artificial objects. While the counties remained, as they then were, of course, no one of them could be divided, so as to fall into different districts. But while the boundaries of counties, to a certain extent, and districts, were fixed upon the same lines, they were yet independent of each other; so that whatever changes might be made in county limits, the lines of the districts remained as before, subject only to such changes as are provided for in the Constitution itself." *State* v. *Dudley*, 1 Ohio St. 437-443—Ranney, J.

SEC. 8. The same rules shall be applied in apportioning the fractions of senatorial districts, and in annexing districts, which may hereafter have less than three-fourths of a senatorial ratio, as are applied to representative districts.

SEC. 9. Any county forming part of a senatorial district, having acquired a population equal to a full senatorial ratio, shall be made a separate senatorial district, at any regular decennial apportionment, if a full senatorial ratio shall be left in the district from which it shall be taken.

SEC. 10. For the first ten years after the year one thousand eight hundred and fifty-one, the apportionment of representatives shall be as provided in the schedule, and no change shall ever be made in the principles of representation, as herein established, or in the

senatorial districts, except as above provided. All territory belonging to a county at the time of any apportionment, shall, as to the right of representation and suffrage, remain an integral part thereof during the decennial period.

"The exceptions contained in this section refer to the eighth and ninth sections. . . The provisions of this section irrevocably fix the districts, and apportion the representation for ten years. At the expiration of that period, other sections of the eleventh article direct specifically in what manner the executive officers, charged with the duty, shall ascertain and fix it, for another period of ten years. It is manifest that no change, alteration, or modification of the representative districts is allowed between the periods of decennial apportionment; unlike the senate districts, they are not to forever remain unchanged. On the contrary, they must, of necessity, at the expiration of each ten years, so change as to conform to the boundaries of counties, as they are then found to exist; and the limits of districts at those periods become again identical with those of counties." *State* v. *Dudley*, 1 Ohio St. 437-444, 446, 447—Ranney, J.

SEC. 11. The governor, auditor and secretary of state, or any two of them, shall, at least six months prior to the October election, in the year one thousand eight hundred and sixty-one, and at each decennial period thereafter, ascertain and determine the ratio of representation, according to the decennial census, the number of representatives and senators each county or district shall be entitled to elect, and for what years, within the next ensuing ten years, and the governor shall cause the same to be published, in such manner as shall be directed by law.

JUDICIAL APPORTIONMENT.

SEC. 12. For judicial purposes, the state shall be apportioned as follows:

The county of Hamilton shall constitute the first district, which shall not be subdivided; and the judges therein may hold separate courts or separate sittings of the same court at the same time.

The counties of Butler, Preble and Darke shall constitute the first subdivision; Montgomery, Miami and Champaign the second; and Warren, Clinton, Greene and Clark, the third subdivision of the second district; and, together, shall form such district.

The counties of Shelby, Auglaize, Allen, Hardin, Logan, Union and Marion, shall constitute the first subdivision; Mercer, Van Wert, Putnam, Paulding, Defiance, Williams, Henry and Fulton the second; and Wood, Seneca, Hancock, Wyandot and Crawford, the third subdivision of the third district; and, together, shall form such district.

The counties of Lucas, Ottawa, Sandusky, Erie and Huron shall constitute the first subdivision; Lorain, Medina and Summit, the second; and the county of Cuyahoga the third subdivision of the fourth district; and, together, shall form such district.

The counties of Clermont, Brown and Adams shall constitute the first subdivision; Highland, Ross and Fayette, the second; and Pickaway, Franklin and Madison, the third subdivision of the fifth district; and, together, shall form such district.

The counties of Licking, Knox and Delaware shall constitute the first subdivision; Morrow, Richland and Ashland, the second; and Wayne, Holmes and Coshocton, the third subdivision of the sixth district; and together, shall form such district.

The counties of Fairfield, Perry and Hocking shall constitute the first subdivision; Jackson, Vinton, Pike,

Scioto and Lawrence, the second; and Gallia, Meigs, Athens and Washington, the third subdivision of the seventh district; and, together, shall form such district.

The counties of Muskingum and Morgan shall constitute the first subdivision; Guernsey, Belmont and Monroe, the second; and Jefferson, Harrison and Tuscarawas, the third subdivision of the eighth district; and together, shall form such district.

The counties of Stark, Carroll and Columbiana shall constitute the first subdivision; Trumbull, Portage and Mahoning, the second; and Geauga, Lake and Ashtabula, the third subdivision of the ninth district; and together, shall form such district.

SEC. 13. The general assembly shall attach any new counties that may hereafter be erected to such districts or subdivisions thereof as shall be most convenient.

'This section very clearly applies to any new county erected after the adoption of the Constitution by the convention. This construction does not require any effect to be given to the Constitution before the first of September, but after it has taken effect, it directs the general assembly what to do with counties erected after the tenth of March, or, in other words, it imperatively requires the general assembly, acting under the Constitution to attach all counties created after that date to some convenient district and subdivision. *State* v. *Dudley*, 1 Ohio St. 437-449-450—Ranney, J.

ARTICLE XII.

FINANCE AND TAXATION.

SECTION 1. The levying of taxes by the poll is grievous and oppressive; therefore, the general assembly shall never levy a poll tax for county or state purposes.

The sum demanded for license to pursue an employment, when used as a means of supplying the public treasury, is a tax on such employment. *Mays* v. *Cincinnati*, 1 Ohio St. 268; *Cincinnati* v. *Bryson* 15 Ohio, St 625; *Cincinnati* v. *Buckingham*, 10 Ohio. 257-261; *State* v. *Proudfit*; *State* v. *Hibbard*, 3 Ohio St., 63.

The fourth section of the act of March 31, 1864 "to organize and discipline the militia of Ohio" (61 v. 110), which provides that "all persons subject to military duty, and who are not members of some volunteer organization, shall either become members of some volunteer organization or shall pay into the county treasury annually the sum of four dollars, which sum shall be a commutation for fines and penalties for neglect to perform military service," etc., is not in conflict with this section Such commutation is not a tax, but is only a means of instrumentality, by which the general assembly enforces, to the extent deemed necessary, the performance of military duty enjoined by Art, IX, § 1. *Houston* v. *Wright*, 15 Ohio St. 348.

SEC. 2. Laws shall be passed taxing[1] by a uniform rule all moneys, credits,[2] investments in bonds, stocks,[3] joint stock companies, or otherwise; and also all[4] real and personal property[5] according to its true value in money[6]; but burying grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose[7], and personal property to an amount not exceeding in value two hundred dollars, for each individual may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal; and the value of all property so exempted, shall, from time to time, be ascertained and published, as may be directed by law;[8]

1. "The power of taxation is included in the legislative power. In our former Constitution it was limited in one particular—the prohibition of a poll tax. In the present it is regulated or limited in other particulars. This section is not a grant of power, but a regulation of the power already granted in the first section of the second article. The expression is 'law shall be pas-

sed;' and not that the general assembly shall have the power to pass.' So of every provision of the twelfth article, they either prohibit or regulate the exercise of the power of taxation in specified instances." *Baker* v. *Cincinnati*, 11 Ohio St. 531-543—Gholson, J.

Assessments are not embraced within the meaning of the word "taxation" in this section. *Reeves* v. *Treas Wood Co.*, 8 Ohio St. 333; *Thompson* v. *Wood Co.*, 11 Ohio St. 678 *See Art XIII* § 6, *Note* 3.

In a case involving the construction of the provisions of the act relating to the taxes for road purposes, it was said: "We need not determine whether the commissioners are required or permitted to expend any portion of the tax in Lima. They have exclusive power over the und The people of the whole county are supposed to have an interest in the public highways. The particular condition of things which called for the imposition of the tax is unknown to us, but we are bound to assume it justified a levy on all the taxable property of the county; and we are not warranted in saying that it would be a violation of the Constitution to tax the citizens of Lima, in common with the people throughout the county, for the repair of roads on which the prosperity of the corporation may largely depend" *Lima* v. *McBride*, 34 Ohio St. 338-351—Okey, J.

2. The Constitution permits no deduction of lialilities from moneys and credits. *Exchange Bank* v. *Hines*, 3 Ohio St. 1; *Ellis* v. *Linck Ib.*, *66 Latimore* v. *Morgan*, 6 Ohio, St., 279

3. The state has power to tax shares in the national banks located in Ohio, subject to the limitations that such tax shall not exceed the rate imposed upon other moneyed capital nor individuals, nor that imposed upon shares in the state banks, as provided in the act of Congress of June 3, 1864. *Frazier* v. *Siebum*, 16 Ohio St., 614.

The shares in national banks thus to be taxed are to be understood as the individual property or choses of the stockholders, as contra-distinguished from aliquot parts of the capital and property of the bank, and as such, may be taxed at their full value, without deduction for franchise, for real estate otherwise taxed, or for untaxable bonds owned by the bank. *Ib.*

4. The property of every person, however absolute the tenure by which it is held, must be liable to bea an equal and just pro-

portion to the public burdens, by way of taxation, in return for the protection and advantages offered by the government, and that proportion of taxation must be determined by the legislative power, which extends to all persons and property within the state. *Toledo Bank* v. *Bond*, 1 Ohio, St. 623.

All exemptions of any part of the property in a municipal corporation, otherwise subject to taxation, from contributing to the general revenue fund, are in conflict with this section. *Zanesville* v. *Richards*, 5 Ohio St. 589.

The fact that property subject to taxation has not been listed although it improperly increases the burden of taxation on the property that is listed, does not render the tax wholly void, or authorize the interference of a court of equity. *Exchange Bank* v. *Hines*, 3 Ohio St. 1.

5. An express direction to impose a tax on all property by a uniform rule does not necessarily exclude taxation upon that which is not property, or cover the whole ground included within the limits of the taxing power. *Zanesville* v. *Richards*, 5 Ohio St. 589-593; *Baker* v. *Cincinnati*, 11 Ohio St. 540; *Cin. Gas L. & C. Co.* v. *State*, 18 Ohio St. 243.

A license cannot be regarded as property of any description, and consequently is not subject to taxation under this section. But a charge may be exacted for it. Although authority to exact payment for a license is not expressly conferred in the Constitution, yet the exercise of the power not being prohibited, and not being inconsistent with any Constitutional provisions, the general assembly may lawfully confer such power. *Exchange Bank* v. *Hines*, 3 Ohio St. 1; *Baker* v. *Cincinnati*, 11 Ohio St. 534; *Cin. Gas L. & C. Co.*, v. *State*, 18 Ohio St. 243.

The provisions of this article are not grants of power to the legislature, but limitations and restrictions on the general powers conferred by Article II, section 1. *West Union Tel. Co.* v. *Mayer*, 28 Ohio St. 521.

The privilege that a foreign corporation enjoys, by legislative consent, of exercising its corporate powers, and of carrying on its business within the state, is not *property* within the meaning of this section. *Ib.*

6. Choses in action are to be listed at their true value. If a note, for instance is wholly worthless, it is not to be listed at all:

if it is of some value, but less than its face, it is to be listed at what it is worth. *Exchange Bank* v. *Hines*, 3 Ohio St. 1.

7. In this section, the word "public" is used, in some instances, to describe the ownership of property, and in others, as descriptive of the use to which the property is applied; and the term "public school houses" means such school houses as belong to the public, and are designed for schools established and conducted under public authority. *Gerke* v. *Purcell*, 25 Ohio St. 229.

Schools established by private donations, and conducted for the benefit of the public, and not with a view to profit, are "institutions of purely public charity," and such school property may be exempted from taxation without reference to the manner in which the title thereto is held, or the form of character of the organization conducting the school. *Ib.*

The power to exempt from taxation "houses used exclusively for public worship," implies the power to so exempt such grounds as are reasonably necessary for the use of such houses; but the use must be the same, and therefore a parsonage on grounds adjoining a church, which is used as a residence, cannot be exempted from taxation. *Ib.*

8. This section is equally applicable to, and furnishes the governing principle for, all laws levying taxes for general revenue, whether for state, county, township, or municipal purposes. *Zanesville* v. *Richards*, 5 Ohio St. 589; *Hill* v. *Higdon*, 5 Ohio St. 243; *Reeves* v. *Treas. of Wood Co.*, 8 Ohio St. 333; *Baker* v. *Cincinnati*, 11 Ohio St. 534; *Cin. Gas L. & C. Co.* v. *State*, 18 Ohio St. 237.

Section three of the act of April 6, 1869, "for the inspection of gas meters, etc. (63 v. 164), providing that the salary of the inspector of gas meters and illuminating gas shall be paid by the several gas-light companies in this state, in amounts proportionate to their appraised valuation, is not in conflict with this section. *Cin. Gas L. & C. Co.* v. *State*, 18 Ohio St. 237.

SEC. 3. The general assembly shall provide by law for taxing the notes and bills discounted or purchased-moneys loaned, and all other property,[1] effects or dues, of every description, without deduction,[2] of all banks now existing, or hereafter created, and of all bankers,[3]

so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals.[4]

1. Moneys deposited with a bank or banker, unless specially deposited, become the moneys of the bank or banker, appertaining to the business of banking, and proper to be listed with the other moneys belonging to that business; and this is equally true of general deposits, whether they happen to be used in the discounting of paper or held in reserve to pay probable current demands. *Ellis* v. *Linck*, 3 Ohio St. 66.

Under the 19th section of the tax law of April 13, 1852 (50 v. 135), all the assets and resources of a bank, whether specie or balance in other banks, must, if employed in any manner whereby the bank obtains or reserves a per cent. premium, profit or a consideration, be averaged for taxation. Specie unemployed, not on hand for sale, and from which the bank derives no profit, etc., is not required to be returned to the assessor. So balances due from other banks, upon which no interest, profit, or consideration is reserved or received, are not required to be returned to the assessor. *Stark County Bank* v. *McGregor*, 6 Ohio St. 45. (*See preceding section, Note 3.*)

2. Bankers, although private, cannot deduct their debts from their moneys and credits. *Ellis* v. *Linck*, 3 Ohio St. 66. And see *Exchange Bank* v. *Hines*, *Ib.*, 1.

3. Under the act of April 12, 1858 (55 v. 128), a partnership engaged in the business of banking was liable as such to the tax imposed by that act. *Robinson* v. *Ward*, 13 Ohio St. 293.

Persons having money employed in the business described in the 15th section of the tax law of April 13, 1852 (50 v. 135); are bankers such as are forbidden to make deductions by this section of the Constitution. *Ellis* v. *Linck*, 3 Ohio St. 66.

4. The tax law of April 13, 1852 (50 v. 135), is valid and constitutional in the basis it provides for the taxation of banks, bankers and brokers. The tenth section of that law, which allows individuals and certain corporations, in giving their tax lists, to deduct their liabilities from the amount of their moneys and credits, is repugnant to the Constitution of Ohio, and is void. But that section may be treated as void without affecting the validity of the remainder of the act. The remainder of the act per-

mits no such deduction. *Exchange Bank* v. *Hines*, 3 Ohio St. 1, followed and approved in *Ellis* v. *Linck*, *Ib.*, 66.

"This section was inserted that there might be no doubt how existing as well as future banks and bankers, whether incorporated or unincorporated, were to be taxed; that there might be no doubt what property of theirs was to be the object of taxation; and further to deprive them of even the two hundred-dollar exemption which may be permitted to individuals under section two. And hence it is that we find it in the words 'without deduction.'" *Exchange Bank* v. *Hines*, 3 Ohio St. 1-46—Thurman, J.

SEC. 4. The general assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, and also a sufficient sum to pay the interest on the state debt.

SEC. 5. No tax shall be levied except in pursuance of law; and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

The power of taxation being a sovereign power, can only be exercised by the general assembly when, and as conferred, by the Constitution; and by municipal corporations only when equivocally delegated to them by the legislative body. *Mays* v *Cincinnati*, 1 Ohio St. 268.

The right of taxation, vital to the existence of every government and one of the most important incidents of sovereignty, has only been delegated to the general assembly to be used for the purpose of accomplishing the lawful objects with which it is charged. It can only be exercised to raise money for these purposes; and any attempt to use it otherwise, or to control or abridge the right itself, is beyond the delegation, and an unauthorized assumption of power. *Debolt* v. *Ohio Life Ins. and Trust Co.*, 1 Ohio St. 563; *Toledo Bank* v. *Bond*, *Ib.*, 623.

SEC. 6. The state shall never contract any debt for purposes of internal improvement.

This restriction applies to the state alone, and not to her subdivisions. *Cass* v. *Dillon*, 2 Ohio St. 608.

See *Article VIII*, § 4. *Note.*

ARTICLE XIII.

CORPORATIONS.

SECTION 1. The general assembly shall pass no special act conferring corporate powers.

For decisions holding statutes to be in conflict with this section, see *Atkinson* v. *M. & C. R. Co.*, 15 Ohio St. 21; *State* v. *Cincinnati*, 20 Ohio St. 18; *State* v. *Cincinnati*, 23 Ohio St. 445; *State* v. *Mitchell*, 31 Ohio St. 592.

For decisions holding certain statutory provisions not to be in conflict with this section, see *Foster* v. *Wood Co.*, 9 Ohio St. 540; *Penn. & O. Canal Co.* v. *Portage Co.*, 27 Ohio St. 14; *State* v. *Covington*, 29 Ohio St. 102.

And see § 6 of this article. *Note 2.*

This section in its terms merely prohibits future special legislation conferring corporate powers, and does not, expressly nor by implication, abrogate former legislation of that character *Citizens' Bank* v. *Wright*, 6 Ohio St. 318; *State* v. *Roosa*, 11 Ohio 16-25; *State* v. *Union Tp.*, 8 Ohio St. 394-400.

SEC. 2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed.

On March 22, 1850, prior to the adoption of this Constitution, the general assembly passed a special act incorporating the Cincinnati, Lebanon and Xenia Railroad Company, authorizing commissioners therein named to open books, receive subscriptions to capital stock, and thereupon to organize a corporation under it. No steps were taken by the commissioners toward such subscription and organization until after this Constitution took effect, but such subscriptions were made and organization effected within the period limited by the special act for that purpose. Held: 1. That the special act was not abrogated or repealed by this section of the Constitution. 2. This section is prospective and not retrospective, in its intent and application conferring merely an authority to legislate, and does not repeal unaccepted acts of incorporation enacted under the Constitution of 1802. *State* v. *Roosa*, 11 Ohio St. 16; *C., W. & Z. R. R. Co.* v.

Com. of *Clinton Co.*, 1 Ohio St. 77; *Cass* v. *Dillon*, 2 Ohio St. 607-623; *Citizens' Bank* v. *Wright*, 6 Ohio St. 318; *State* v. *Van Horn*, 7 Ohio St. 327; *State* v. *Union Tp.*, 8 Ohio St. 394-400; *Com. of Knox Co.* v. *Nichols*, 14 Ohio St. 260; *Fosdick* v. *Perrysburg*, *Ib.*, 472.

Consolidated railroad companies organized in pursuance of the act of 1856 (53 v. 143), are corporations formed under a general law within the meaning of this section, and as such are subject to the limitations and reservations contained therein, and in Article I, section 2; and the general assembly may alter and regulate rates of fare chargeable by such companies. *Shields* v. *State*, 23 Ohio St. 86.

A county is not properly a corporation, but is at most but a local organization, which, for the purpose of civil administration, is invested with a few functions characteristic of a corporate existence. *C., W. & Z. R. R. Co.* v. *Com. of Clinton Co.*, 1 Ohio St. 77-89; *Com. of Hamilton Co.* v. *Mighels*, 7 Ohio St. 109; *Hunter* v. *Com. of Mercer Co.*, 10 Ohio St. 520; *State* v. *Cincinnati*, 20 Ohio St. 18-37; *Boalt* v. *Com. of Williams Co.*, 18 Ohio St., 13-16.

Where a corporation, in pursuance of an act of legislature, transfers or conveys its franchise to be a corporation to others, the transaction, in legal effect, is a surrender or abandonment of its charter by the corporation, and a grant by the legislature of a similar charter to the transferees or purchasers; and the charter so granted is subject to all the provisions of the Constitution existing at the time it is so granted. *State* v. *Sherman*, 22 Ohio St. 411.

The act of April 4, 1863 (60 v. 54), authorizing the purchasers of the property of a railroad company to acquire the franchise to be a corporation by deed from the company, is a general law within the meaning of this section of the Constitution. *Ib.*

But a deed made by such company to corporation of another state, which corporation has become the assignee of property sold as contemplated in said act, without any new organization, or taking of stock, under the deed, or as a corporation of Ohio, does not constitute the foreign corporation, or its members an Ohio corporation, and in so far as said act may assume to create them such, it is unconstitutional for the reason that it does not secure the individual liability of the stockholders. *Ib.*

SEC. 3. Dues from corporations shall be secured, by such individual liability of the stockholders, and other

means, as may be prescribed by law; but in all cases each stockholder shall be liable, over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

The l gislature has no po wer, und r the present Constitution of Ohio, to create corporations without securing the individual liability of their stockholders, at least to the minimum amount required by the Constitution; and if the act of incorporation does not secure this, either by express provision, or by requiring from the corporation of stockholders such acts of organ zation c r otherwise, as will subject the n to the constitutional provision the act will be unconstitutional and void. *State* v. *Sherman*, 22 Ohio St 411.

The liability of ind vidual stockholders is colateral to the principal obligation of the corporation, and is to be resorted to by the creditors only in case of the insolvency of the corporation, or where payment can not be enforced against it by the c rdinary process of execution. *Wright* v. *McCormick*, 17 Ohio St. 86.

What is a stockholder within this section. *Henkle* v. *Salem Manf. Co.*, 39 Ohio St. 547, 552.

This section is prospective in its intent and application. *Citizens' Bank* v. *Wright*, 6 Ohio St. 318; *State* v. *Roosa*, 11 Ohio St. 17.

SEC. 4. The property of corporations now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

A corporative franchise, being a mere privilege or grant of au hority by the government, is not property of any description, and consequently not subject to taxation. *Exchange Bank* v. *Hines*, 3 Ohio St. 1-8; *Baker* v. *Cincinnati*, 11 Ohio St. 534-540.

"There was no absolute necessity for this sect on, for, without, section two of article twelve would have embraced these corporations." *Exchange Bank* v. *Hines*, 3 Ohio St. 146—Thurman, J.

SEC. 5. No right of way[1] shall be appropriated to the use of any corporation[2] until full compensation[3] therefor be first made in money, or first secured by a

deposit of money[4] to the owner, irrespective of any benefit[5] from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men, in a court of record[6] as shall be prescribed by law.[7]

1. The general assembly possesses the constitutional power to confer upon a corporation authorized to construct a railroad, the right to appropriate grounds necessary for its use for a depot. *Giesy* v. *C. W. & Z. R. R. Co.*, 4 Ohio S . 308.

Where an incorporated company has, by its charter, authority to construct a road between given oints, and to appropriate land to t e width of sixty feet over which to locate the same, and, when finished, to charge and collect tolls from travelers who pass over it—Held: That after the company has made such an appropriation of land for the purpose of its road, and freeholders have, in accordance with the provisions of the charter, ascertained and determined the owner's damage, it may, within the sixty feet of ground used for the road, build a toll-house and dig a well for the accommodation of the toll-gatherer. *Ward* v. *Marietta and Newport Turnpike and Bridge Co.*, 6 Ohio St. 15.

"Any other structure, within the sixty feet, and essential to the carrying out of the object sought by the corporators, and consonant with their charter, may, as an unavoidable and legitimate incident of the powers given them, be placed within the road limits" *Ib.*, 17—Bowen J.

Under the general corporation act of 1852 (50 v. 274, § § 21, 27, 28), a railroad company has power to condemn land for new sidetracks, leading from the main road to its depot buildings, whenever they become necessary in the proper management and operation of the road. *Toledo & Wabash R. R. Co.* v. *Daniels*, 16 Ohio St., 390.

Authority to lay down the necessary structure for a street railway, in a common highway or stree , and to run cars thereon for the carriage of passengers for hire, may be lawfully granted to a company incorporat d for that purpose, when no private right of the adjoining lot owners is thereby impaired. *Street Railway* v. *Cumminsville*, 14 Ohio St. 524.

A railroad company authorized to change the location of its track, on account of difficulty of construction and other causes

may do so at any time before the constr ction of its road s completed at the point where the change is made. *Atkinson* v. *M. & C. R. R. Co.*, 15 Ohio St. 21.

But having once located and constructed its road, the company can not re-locate it, and for that purpose appropriate private property. *Ib.*, *Morehead*, v. *L. M. R. R. Co.*, 17 Ohio, 340.

So where the charter of a railroad company merely fixes a few points through which the road is to pass, from its commencement to its terminus, leaving he location of the road between the points specified to the discretion of the corporation, the railroad company having once located the road, their power to re-locate, and for that purpose to appropriate the property of an individual, has ceased. *L. M. R. R. Co.* v. *Naylor*, 2 Ohio St. 235.

The same principle applies, whether the case be that of an attempt to re-locate on the property of an individual, or that of using a street or highway for the purpose. *Ib.*

Grants of corporate power, being in derogation of common right, are to be strictly construed—particularly where the power claimed is a delegation of the sovereign power of eminent domain. Hence, where a railroad company is authorized by law only "to enter upon any land to survey, lay down and construct its road," "to locate and construct branched roads from the main road to any town or places in the s veral counties through which the said road may pass," to appropriate land for "necessary side-tracks," and "a right of way over adjacent lands sufficient to enable such company to construct and repair its road" and such company has located, and is engaged in the construction of its permanent main road along the north side of a town, it is not authorized to appropriate temporary right of way, for the term of three years, along the south side of the town, to be used as a substitute for the main track while the same is in course of construction along the north side of the town. *Currier* v. *M. & C. R. R. Co.*, 11 Ohio St. 228.

A railroad company organized under, and made subject to, the provisions of the act "regulating railroad companies," of February 1, 1848 (46 v. 40), is not authorized to condemn private property to its exclusive use soley for the purposes of a wharf. *Iron R. R. Co.* v. *Ironton*, 19 Ohio St. 299.

The power given to municipal corporations to condemn private property for a public wharf is an express power; and the

right of a railroad company to hold property exempt from the exercise of this power can not be extended, by construction, to lands held by the company for use and purposes for which it is not, by law, authorized to condemn private property. *Ib.*

2. Corporate existence, and the right to exercise the power of eminent domain, can only be derived from legislative enactment; and before a company can demand a judgment of condemnation, it must show that both have been conferred upon it by a valid law, and that it has substantially complied with the conditions which the law has annexed to the exercise of the power. *Atkinson* v. *M. & C. R. R. Co.*, 15 Ohio St. 2; *A & O. R. Co.* v. *Sullivant*, 5 Ohio St. 276.

A delegation of the power of eminent domain to a corporation as a necessary means to carry into effect the grant of its franchises, can not be made the subject of either grant or sale. *Co* v. *C. P. & I. R. R. Co.*, 10 Ohio St., 372; *Atkinson* v. *M. & C. R. R. Co.*, 15 Ohio St. 21-36. But see *Art. XIII*, § 2, *Note.*

8. Where a piece or strip of land is by appropriation made by a railroad company, severed from its connection with the other land of the owner, in estimating the compensation to be made to the owner, not only is the value of the strip or piece taken to be considered, but also its relative value, and the effect arising from its severance from the residue of the owner's land, as well as to the uses to which it is to be appropriated. *C. & P. R. R. Co.* v. *Ball*, 5 Ohio St. 569.

Where a right of way originally appropriated for one public use is afterward taken for another, the owner of the fee simple title to the lands is entitled to recover a full and fair compensation for such additional burdens and inconveniences, not common to the regular public, as accrue to him and his entire tract on which the easement is imposed, by reason of the change of uses to which the lands appropriated have been subjected. *Hatch* v *C & I. R. R. Co.*, 18 Ohio St. 92.

The rightful power of a canal company over the canal, in the absence of any statute or contract to limit it, being exclusive, any use of the waters of the canal for purposes of navigation, or for watering stock by the owner of the fee simple of the lands intersected by it being a matter of sufferance and not of right, the loss of these conveniences by reason of the change of use whereby the canal-bed is transformed into the roadway of a railroad, does not

constitute an element to be reckoned in estimating the amount of his compensation. *Ib.*

Nor is such owner entitled to recover damages on account of increased danger from fire to his buildings or other structures, by reason of such change of use, unless the proximity of his buildings, etc., to the railroad be such as to render the danger imminent and appreciable. *Ib.*

Where an entire tract of land is cut assunder by an appropriation of an easement upon it by a canal company, for the purpose of a ca al; and this easement is afterward transferred by the canal company to a railroad company for the purpose of a railroad; and the latter, in the construction of its railroad, throws up embankments or excavates cuts across a common public highway, skirting the tract, and constituting the only convenient medium of access between the parcels into which the tract has been thus severed, the increased inconvenience and danger of access thus occasioned between the two parts of the tract are peculiar to the owner of the tract in the use of his property, not common to the public at large, and for this increase of inconvenience and danger he is entitled to compensation. *Ib.*

See *Art I, § 19, Note 5.*

4. See *Art I, § 19, Notes 5, 6.*

5. The provisions of article one, section nineteen, and of this section—the one requiring compensation to be made without deduction for benefits, when property is applied to a public use, and the other providing for compensation irrespective of benefits, where it is taken by a corporation for a right of way—are, in legal effect, identical. When taken under either section, its fair market value in cash, at the time it is taken, must be paid to the owner; and the jury, in assessing the amount, have no right to consider or make use of the fact, that it has been increased in value by the proposal or construction of the improvement. *Giesy* v. *C. W. & Z. R. R. Co.*, 4 Ohio St. 309.

In a proceeding by a railroad corporation for an appropriation of a right of way under the act of April 30, 1852 (50 v. 201), the jury, after allowing for the full value of the land actually appropriated for the right of way, in view of all its uses and relations, without deductions for benefits of any kind, in their estimate and assessment of the incidental damages accruing to other lands of the owner, cannot legally take into consideration and make al-

lowance for general benefits—or such as accrue to the community and vicinage at large—from the construction of the work proposed. Whether special benefits, or such as accrue directly or solely to the owner of the lands appropriated, may be taken into considereration and allowed for, *quere L. M. R. R. Co.* v. *Collett*, 6 Ohio St. 182.

This question is answered by the following notes:

Where compensation is claimed for the location and construction of a railroad between coal mines and a navigable river on the land-owner's premises, whereby the conveniences of the river transportation for the coal to market were injured, or cut off, it is competent for the railroad company to show that the river transportation, in connection with the coal banks, had ceased to be valuable, or become of less value, by means of the facilities for coal transportation afforded by the railroad, for the purpose of reducing the damages. *C. & P. R. R. Co.* v. *Ball*, 5 Ohio St. 568.

In case of a railroad appropriation for a right of way through a tract of land, causing incidental and local injury to the residue of the tract, although general resulting benefits from the railroad to the value of such residue of the land cannot be taken into account in estimating the amount of compensation to be paid to the owner; yet, where a local incidental benefit to the residue o the land is blended or connected, either in locality or subject, matter, with a local incidental injury to such residue of the land the benefit may be considered in fixing the compensation to be paid to the owner, not by way of deduction from the compensaf tion, but of showing the extent of the injury done the value of the residue of the land. *Ib.*

But in assessing the compensation for a local incidental injury to the residue of the owner's tract of land, arising from the appropriation of the right of way, and construction of a railroad, whether a local incidental benefit arising from the railroad structure to the residue of the tract, but not connected either in locality or subject-matter with the injury, can be taken into the account in estimating the compensation for the damages, *quere*. *Ib.*

See *Art I, § 19, Note 8.*

6. "It had been held in *Willyard* v. *Hamilton*, 7 Ohio, 2 pt., 115, that the value of property taken for public uses might rightfully be assessed by commissioners, it not being a case for trial by jury, secured by the Constitution, and that the proceeding need

not be had in a court of justice. And the reason why it was not secured by the Constitution was, that it had never been so regarded in England or this country prior to the adoption of that instrument. This course of proceeding by commissioners, had been much complained of as unjust and oppressive to the owner of the property; and to make at once a proceeding within the protection of the Constitution and to be persued in a court of justice with a common law jury, this section was inserted, when the Constitution was revised. It intended to afford the party the same protection as in other cases of jury trial; no more and no less." *Work* v. *State*, 2 Ohio St. 296-307—Ranney, J.

See *Art I, § 19, Note 7.*

7. If a statute confer authority, as upon a company to construct works of public interests, or upon city authorities to improve streets, and provide the mode of rendering satisfaction or obtaining compensation, that mode must be followed. *L. M. R. R Co.*, v. *Whitacre*, 8 Ohio St. 590; *Hueston* v. *E. & H. R. R. Co.*, 4 Ohio St. 685; *Akron* v. *McComb*, 18 Ohio, 229.

But a rule of compensation and a mode of ascertaining it, prescribed by a law passed prior to the adoption of the present Constitution, was abrogated by it, and a new rule and mode of compensation thereby prescribed. *Perrysburg C. & H. Co.*, v *Fitzgerald*, 10 Ohio St 513

SEC. 6. The general assembly shall provide for the organization of cities, and incorporated villages,[1] by general laws,[2] and restrict their power of taxation,[3] assessment,[4] borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power.[5]

1. The general act of May 3, 1852 (50 v. 223), "to provide for the organization of cities and incorporated villages," did not annihilate and recreate the municipal corporations of the state, but recognized and continued them, leaving their corporate identity unaffected. *Fosdick* v. *Perrysburg*, 14 Ohio St. 473.

The power of creating municipal corporations necessarily implies authority to confer upon them such police powers as may be necessary for their internal government; and a resolution of a city council requiring lots, on which is stagnant water, to be filled

up, being a reasonable sanitary measure for preserving the health of the inhabitants, is not in conflict with the Constitution. *Bliss* v. *Kraus*, 16 Ohio St. 54.

Proceedings to annex contiguous territory to the corporate limits of a town, in pursuance of the fourteenth section of the act to provide for the organization of cities and incorporated villages (50 v. 223), are not in contravention of the provisions of the Constitution. *Powers* v. *Com. of Wood Co.*, 8 Ohio St. 285; *Blanchard* v. *Bissell*, 11 Ohio St. 96.

2. Under the restrictive and mandatory provision of this and the first section of this article, the general assembly cannot, by a special act, confer additional powers on a corporation already existing; and in the purview and application of the provisions of these sections, there is no distinction between private and municipal corporations. *State* v. *Cincinnati*, 20 Ohio St. 18.

The act of April 16, 1870 (67 v. 141), "to prescribe the corporate limits of Cincinnati," is a special act. It assumes to confer upon the corporation of that city additional powers; to confer on certain conditions, the power of municipal government, the power of police regulation, the power of judicial jurisdiction, and of assessment and taxation, over a number of outlying incorporated suburban villages and other territory not before within the limits of the city; and is therefore repugnant to the Constitution, and of no binding force and validity. *Ib.*

3. It is well settled in this state, by repeated adjudications, that, independent of constitutional prohibition, it is within the scope of legislative power to authorize a city to aid in the construction of railroads or other public improvements in which such city has a special interest, and to impose taxes upon its citizens for that purpose. *Walker* v. *Cincinnati*, 21 Ohio St. 14; and see numerous authorities there cited.

It follows that it is equally competent for the legislature to authorize the entire construction of such improvements by a city having a special interest therein, and to impower the local authorities to means therefor by the taxation of its citizens. *Ib.*

Where the authority given is to construct a line of railroad having one of its termini in such city, it does not affect the question of power, that the road when constructed will lie mainly outside of the state of Ohio. It is the corporate interest of the municipality which determines her right of taxation, and not the

location of the road, which may well be constructed with the consent of the state into or through which it may pass. *Ib.*

Taxation can only be authorized for public purposes. Where, therefore, a statute authorizes a county, township or municipality to levy taxes not above a given per cent. on the taxable property of the locality, for the purpose of building so much of a railroad as can be built for that amount, and the part of a railroad to be built can be of no public utility unless used to accomplish an unconstitutional purpose, such tax is illegal, and can not be imposed. *Taylor* v. *Com. of Ross County*, 22 Ohio St.

The power vested in the general assembly under this section to restrict the powers of taxation and assessment by municipal corporations is subject to the limitations imposed by article I, section 10, of the Constitution of the United States, which declares that "no state shall pass any law impairing the obligations of contracts," and of article II, section 28, of the state Constitution. *Goodale* v. *Fennell*, 27 Ohio St. 426.

4. Legislation authorizing cities and villages to levy special assessments for the purpose of improving streets upon real property peculiarly and specially benefitted, is not repugant to the Constitution. And such assessment may be made upon property abutting on such streets, in proportion to the number of feet front abutting thereon. *Bonsall* v. *Lebanon*, 19 Ohio St. 418; *Scovill* v. *Cleveland*, 1 Ohio St. 126; *Hill* v. *Higdon*, 5 Ohio St. 243; *Marion* v. *Epler*, *Ib.*, 250; *Ernst* v. *Kunkle*, *Ib* 520; *Reeves* v. *Treas. of Wood Co.*, 8 Ohio St. 333; *Foster* v. *Com. of Wood Co.*, 9 Ohio St. 510; *N. I. R. R. Co.* v. *Connelly*, 10 Ohio St. 159; *Maloy* v. *Marietta*, 11 Ohio St. 636; *Creighton* v. *Scott*, 14 Ohio St. 438; *State* v. *Com. of Warren Co.*, 19 Ohio St. 558.

Such assessment may be levied by the acre. *Foster* v. *Com. of Wood Co.*, 9 Ohio St. 540.

Such assessment need not be levied upon all lands on such street but only on those bounding upon the improvement or near thereto. *Scovill* v. *Cleveland*, 1 Ohio St. 127.

The assessment, whether by the front foot or upon the value assessed for taxation, must be uniform, operating alike upon all the lots or lands abutting upon the improvement, and the fact that one or more of the tracts may not have been benefitted by the improvement, will not render such assessment invalid. *N. I. R. R. Co.* v. *Connelly*, 10 Ohio St. 159.

Lands appropriated by a railroad company for its tracks through a city, and crossing the improved street at right angles, and upon which the track was constructed after the work had been completed, is liable to such assessment. And as between the railroad company and the person performing the work, whatever may be the rights of bona fide mortgages of said railroad, the lands so appropriated may be sold to pay said assessment. *Ib.*

The power to authorize assessments as distinguished from taxes proper, is comprehended in the general grant of power to the legislat ve assembly. *Reeves* v. *Treas. of Wood Co.*, 8 Ohio St. 333; *Baker* v. *Cincinnati*, 11 Ohio St. 534.

The power to authorize assessments for the construction of free turnpike roads, and the opening of drains, as well as for the improvement of streets and sidewalks, exists to the same extent under the present Constitution as under that of 1802. *Reeves* v. *Treas. of Wood Co.*, 8 Ohio St. 333.

5. The authority and duty to prevent an abuse of the powers of taxation and assessment by municipal corporations, is intrusted by this section of the Constitution to the general assembly and not to the courts of the state. And the power of the legislature to authorize local taxation can not be judicially denied on the ground that the purpose for which it is exercised is not local unless the absence of all special local interests is clear y apparant. *Walker* v. *Cincinnati*, 21 Ohio St. 14.

This section relates exclusively to cities and villages, and can have no application to counties or county commissioners. *State* v. *Com. of Warren Co.*, 17 Ohio St. 561.

SEC. 7. No act of the general assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors voting at such election.

This section, as well as the second and third, is prospective, and not retrospective, in its intent and application. *Citizen's Bank* v. *Wright*, 6 Ohio St. 318; *State* v. *Roosa*, 11 Ohio St. 17.

The advancing of money by a building association to its members as provided in the act of February 21, 1867 (64 v. 18), is not the exercise of banking powers. *Forest City U. L. B. Ass.* v. *Gallagher*, 25 Ohio St. 208.

And see *Dearborn* v. *Northwestern Savings Bank*, 42 Ohio St. 617; *Bates* v. *People's Savings and Loan Association*, 42 Ohio St. 655.

ARTICLE XIV.

JURISPRUDENCE.

SECTION 1. The general assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, and prescribe their tenure of office, compensation, and the mode of filling vacancies in said commission.

SEC. 2. The said commissioners shall revise, reform, simplify, and abridge the practice, pleadings, forms, and proceedings of the courts of record of this state; and, as far as practicable and expedient, shall provide for the abolition of the distinct forms of action at law, now in use, and for the administration of justice by a uniform mode of proceeding without reference to any distinction between law and equity.

SEC. 3. The proceedings of the commissioners shall, from time to time, be reported to the general assembly, and be subject to the action of that body.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. Columbus shall be the seat of government until otherwise directed by law.

SEC. 2. The printing of the laws, journals, bills, legislative documents, and papers for each branch of the general assembly, with the printing required for the ex-

ecutive and other departments of state, shall be let, on contract to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

SEC. 3. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as shall be prescribed by law.

SEC, 4. No person shall be elected or appointed to any office in this state unless he possesses the qualification of an elector.

This section does not, by implication, forbid the legislature to require other reasonable qualifications for office. *State* v. *Covington*, 29 Ohio St. 102.

It does not apply to the office of deputy clerk of the probate court, and therefore a female is eligible to that office, and may lawfully discharge its duties. *Warwick* v. *State*, 25 Ohio St. 21.

The place of medical superintendent of a hospital for the insane, under the act of 1876 (73 v. 80), is an 'office" within the meaning of this section. *State* v. *Wilson*, 29 Ohio St. 347.

SEC. 5. No person who shall hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry a challenge therefor, shall hold any office in this state.

SEC. 6. Lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this state.

SEC. 7. Every person chosen or appointed to any office under this state, before entering upon the discharge of its duties, shall take an oath or affirmation to support the Constitution of the United States, and of this state, and also an oath of office.

All officers should take the oath required by the Constitution, whether the law, under which they hold office, prescribe this duty

or not. The injunctions of the Constitution in this respect are as obligatory as those of a statute could be. *State* v. *Kennon*, 7 Ohio St. 546-558—Brinkerhoff, J.

SEC. 8. There may be established, in the secretary of state's office, a bureau of statistics, under such regulations as may be prescribed by law.

SEC. 9. No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may, by law, provide against evils resulting therefrom.

This section is inserted here in accordance with the provisions of and the vote on the prop sition submitted in section 18 of the schedule to the Constitution.

This section expressly authorized §§ 1, 2, 4, 8, of the act of May 1, 1854 (52 v. 153), "to provide against the evils resulting from the sale of intoxicating liquors in the state of Ohio." *Miller* v. *State*, 3 Ohio St, 475. And see *State* v. *Hipp*, 38 Ohio St. 199; *State* v. *Frame*, 39 Ohio St. 399; *Butzman* v. *Whitbeck*, 42 Ohio St. 223; *State* v. *Sinks*, 42 Ohio St. 345

ARTICLE XVI.

AMENDMENTS.

SECTION 1. Either branch of the general assembly may propose amendments to this Constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be published in at least one newspaper in each county of the state, where a newspaper is published, for six months preceding the next election for senators and representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting at such election shall

adopt such amendments, the same shall become a part of the Constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this Constitution, they shall recommend to the electors to vote, at the next election for members to the general assembly for or against a convention; and if a majority of all the electors voting at said election, shall have voted for a convention, the general assembly shall, at their next session, provide, by law, for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose aforesaid.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy-one, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the Constitution," shall be submitted to the electors of the state; and in case a majority of all the electors voting at such election shall decide in favor of a convention, the general assembly at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect until the same shall have been submitted to the electors of the state, and adopted by a majority of those voting thereon.

SCHEDULE.

SECTION 1. All laws of this state, in force on the first day of September, one thousand eight hundred and fifty-one, not inconsistent with this Constitution, shall continue in force until amended or repealed.

The laws of a conquered country being held to remain in force until repealed, so far as they are consistent with the government of the conquerors, *a fortiori* must it be held, that the laws of a state survive a peaceable change of its Constitution, effected by its own people, and not varying the general structure of the government, to the full extent to which they are consistent with the new order of things. *Cass* v. *Dillon*, 2 Ohio St. 607.

The new Constitution of Ohio created no new state. It only altered, in some respects, the fundamental law of a state already in existence, and even this was done pursuant to the prior Constitution under whose provisions the convention was called, and the new Constitution framed. *Ib.*

It follows that all laws in force when the latter took effect, and which were not inconsistent with it, would have remained in force without an express provision to that effect, and all inconsistent laws fell simply because they were inconsistent; in other words, all repugnant laws were repealed by implication. *Ib.*

The rule, that repeals by implication are not favored, is applicable to the inquiry, whether any particular enactment has ceased to be in force on account of repugnancy to the new Constitution. *Ib. State* v. *Dudley*, 1 Ohio St. 437.

The repugnancy which must cause the law to fall, must be necessary and obvious; if by a fair course of reasoning, the the law and the Constitution can be reconciled, the law must stand. *C., W. & Z. R. R. Co.* v *Com. of Clinton Co.*, 1 Ohio St. 77; *State* v. *Dudley*, *Ib.*, 437; *Cass* v. *Dillon*, 2 Ohio St 608; *Hill* v. Higdon, 5 Ohio St., 243; *Armstrong* v. *Treas. of Athens Co.*, 10 Ohio, 235; *Goshorn* v. *Purcell*, 11 Ohio St., 653. And see Art. IV, § 1, Note 1.

The English common law so far as it is reasonable within itself, suitable to the condition and business of our people, and consistent with the letter and spirit of our federal and state Con-

stitutions and statutes, has been and is followed by our courts, and may be said to constitute a part of the common law of Ohio. But whenever it has been found wanting in either of these requisites, our courts have not hesitated to modify it to suit our circumstances, or if necessary, wholly to depart from it. *Bloom* v. *Richards*, 2 Ohio St., 387.

SEC. 2. The first election for members of the general assembly, under this Constitution, shall be held on the second Tuesday of October, one thonsand eight hundred and fifty-one.

SEC. 3. The first election for governor, lieutenant-governor, auditor, treasurer, and secretary of state, and attorney general, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one. The persons holding said offices on the first day of September, one thousand eight hundred and fifty-one, shall continue therein, until the second Monday of January, one thousand, eight hundred and fifty-two.

SEC. 4. The first election for judges of the supreme court, courts of common pleas, and probate courts, and clerks of the courts of common pleas, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one, and the official term of said judges and clerks, so elected, shall commence on the second Monday of February, one thousand eight hundred and fifty-two. Judges and clerks of the courts of common pleas and supreme court, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office with their present powers and duties, until the second Monday of February, one thousand eight hundred and fifty-two. No suit or proceeding, pending in any of the courts of this state, shall be affected by the adoption of this Constitution.

SEC. 5. The register and receiver of the land office, directors of the penitentiary, directors of the benevolent institutions of the state, the state librarian, and all other officers, not otherwise provided for in this Constitution, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office, until their terms expire, respectively, unless the general assembly shall otherwise provide.

SEC. 6. The superior and commercial courts of Cincinnati, and the superior court of Cleveland, shall remain, until otherwise provided by law, with their present powers and jurisdiction; and the judges and clerks of said courts, in office on the first day of September, one thousand eight hundred and fifty-one shall continue in office, until the expiration of their terms of office, respectively, or, until otherwise provided by law; but neither of said courts shall continue after the second Monday of February, one thousand eight hundred and fifty-three; and no suits shall be commenced in said two first mentioned courts, after the second Monday in February, one thousand eight hundred and fifty-two; nor in said last mentioned court, after the second Monday in August, one thousand eight hundred and fifty-two; and all business in either of said courts, not disposed of within the time limited for their continuance as aforesaid, shall be transferred to the court of common pleas.

SEC. 7. All county and township officers and justices of the peace, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until their terms expire, respectively.

SEC. 8. Vacancies in office, occuring after the first day of September, one thousand eight hundred and

fifty-one, shall be filled, as is now prescribed by law, and until officers are elected or appointed, and qualified under this Constitution.

SEC. 9. This constitution shall take effect on the first day of September, one thousand eight hundred and fifty-one.

"The Constitution must receive the same construction since its ratification by the people that it would have received when it passed from the hands of the convention. As a necessary result from this principle, things as they existed on the tenth of March when it was adopted by the convention, must control in its construction. In short, the instrument speaks from the teuth of March, although by its own terms, its effects was postponed to the first of September, and none the less so because the approval of the people was made necessary to its ultimate effect. They but ratified and approved an act already done by their representatives in convention, and were not, in any correct sense, the authors of the act itself." *State* v. *Dudley*, 1 Ohio St., 437-442—Ranney, J.

SEC. 10. All officers shall continue in office, until their successors shall be chosen and qualified.

This section was not intended as a permanent provision of the Constitution, and as such applicable to officers chosen under it, but was limited, in its application, to officers chosen or appointed under the old Constitution, and whose term of office did not expire, until after the taking effect of the new Constitution, *State* v. *Taylor*, 15 Ohio St., 137.

SEC. 11. Suits pending in the supreme court in bank, shall be transferred to the supreme court provided for in this constitution, and be proceeded in according to law.

SEC. 12. The district courts shall, in their respective counties, be the successors of the present supreme court; and all suits, prosecutions, judgments, records and proceedings, pending and remaining in said supreme court, in the several counties of any district, shall be

transferred to the respective district courts of such counties, and be proceeded in, as though no change had been made in said supreme court.

SEC. 13. The said courts of common pleas, shall be the successors of the present courts of common pleas in the several counties, except as to probate jurisdiction; and all suits, prosecutions, proceedings, records and judgments, pending or being in said last mentioned courts, except as aforesaid, shall be transferred to the courts of com mon pleas created by this constitution, and proceeded in, as though the same had been therein instituted.

SEC. 14. The probate courts provided for in this Constitution, as to all matters within the jurisdiction conferred upon said courts, shall be the successors, in the several counties, of the present courts of common pleas; and the records, files and papers, business and proceedings, appertaining to said jurisdiction, shall be transferred to said courts of probate, and be there proceeded in according to law.

SEC. 15. Until otherwise provided by law, elections for judges and clerks shall be held, and the poll-books returned as is provided for governor, and the abstract therefrom, certified to the secretary of state, shall be by him opened in the presence of the governor, who shall declare the result, and issue commissions to the persons elected.

SEC. 16. Where two or more counties are joined in a senatorial, representative, or judicial district, the returns of elections shall be sent to the county having the largest population.

SEC. 17. The foregoing Constitution shall be submitted to the electors of the state, at an election to be held on the third Tuesday of June, one thousand eight

hundred and fifty-one, in the several election districts of this state. The ballots at such election shall be written or printed as follows: Those in favor of the Constitution, "New Constitution, Yes;" those against the Constitution, "New Constitution, No." The polls at said election shall be opened between the hours of eight and ten o'clock A. M., and closed at six o'clock P. M., and the said election shall be conducted, and the returns thereof made and certified to the secretary of state, as provided by law for annual elections of state and county officers. Within twenty days after such election the secretary of state shall open the returns thereof in the presence of the governor and, if it shall appear that a majority of all the votes cast at such election are in favor of the Constitution, the governor shall issue his proclamation, stating that fact, and said Constitution shall be the Constitution of the state of Ohio, and not otherwise.

The result of this election, excluding the returns of the two counties, Defiance and Auglaize, which were not received in the twenty days specified, was as follows:

"New Constitution, Yes"	125,564
"New Constitution, No"	109,276
Majority for new Constitution	16,288

SEC. 18. At the time when the votes of the electors shall be taken for the adoption or rejection of this Constitution, the additional section, in the words following, to-wit: "No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may, by law, provide against evils resulting therefrom," shall be separately submitted to the electors for adoption or rejection, in form following, to-wit: A separate ballot may be given by every elector and deposited in a separate box. Upon the ballots given for

said separate amendment shall be written or printed, or partly written and partly printed, the words: "License to sell intoxicating liquors, Yes;" and upon the ballots given against said amendment, in like manner, the words: "License to sell intoxicating liquors, No." If, at the said election, a majority of all the votes given for and against said amendment shall contain the words: "License to sell intoxicating liquors, No," then the said amendment shall be a separate section of article fifteen of the Constitution.[1]

1. This election resulted:

"License to sell intoxicating liquors, No".....	113,237
"License to sell intoxicating liquors, Yes".....	104,255
Majority against license.....	8,982

SEC. 19. The apportionment for the house of representatives during the first decennial period under this constitution, shall be as follows:

The counties of Adams, Allen, Athens, Auglaize, Carroll, Champaign, Clark, Clinton, Crawford, Darke, Delaware, Erie, Fayette, Gallia, Geauga, Greene, Hancock, Harrison, Hocking, Holmes, Lake, Lawrence, Logan, Madison, Marion, Meigs, Morrow, Perry, Pickaway, Pike, Preble, Sandusky, Scioto, Shelby and Union, shall, severally, be entitled to one representative in each session of the decennial period.

The counties of Franklin, Licking, Montgomery, and Stark shall each be entitled to two representatives in each session of the decennial period.

The counties of Ashland, Coshocton, Highland, Huron, Lorain, Mahoning, Medina, Miami, Portage, Seneca, Summit, and Warren, shall, severally, be entitled to one representative in each session, and one additional

representative in the fifth session of the decennial period.

The counties of Ashtabula, Brown, Butler, Clermont, Fairfield, Guernsey, Jefferson, Knox, Monroe, Morgan, Richland, Trumbull, Tuscarawas, and Washington, shall, severally, be entitled to one representative in each session, and two additional representatives, one in the third and one in the fourth session of the decennial period.

The counties of Belmont, Columbiana, Ross, and Wayne, shall, severally, be entitled to one representative in each session, and three additional representatives, one in the first, one in the second, and one in the third session of the decennial period.

The county of Muskingum shall be entitled to two representatives in each session, and one additional representative in the fifth session of the decennial period.

The county of Cuyahoga shall be entitled to two representatives in each session, and two additional representatives, one in the third and one in the fourth session of the decennial period.

The county of Hamilton shall be entitled to seven representatives in each session, and four additional representatives, one in the first, one in the second, one in the third, and one in the fourth session of the decennial period.

The following counties, until they shall have acquired a sufficient population to entitle them to elect separately, under the fourth section of the eleventh article, shall form districts in manner following, to-wit: The counties of Jackson and Vinton, one district; the counties of Lucas and Fulton, one district; the counties

of Wyandot and Hardin, one district; the counties of Mercer and Van Wert, one district; the counties of Paulding, Defiance, and Williams, one district; the counties of Putnam and Henry, one district; and the counties of Wood and Ottawa, one district; each of which districts shall be entitled to one representative in every session of the decennial period.

Done in convention, at Cincinnati, the tenth day of March,[1] in the year of our Lord, one thousand eight hundred and fifty-one, and of the independence of the United States the seventy-fifth.

1. See *Sched.*, § 9. *Note.*

WILLIAM MEDILL,
President.

Attest:

WM. H. GILL, *Secretary.*

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